

## **CONSTITUTIONALISM, DEMOCRACY AND HEGEMONIC STRUCTURE IN NIGERIA**

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### **Abstract**

There is a rationale in the assumption that democracy underpins a set of values which when realized makes it the ideal system of governance. The constitution is regulatory of principles that lead to the attainment of good governance. Granted that Nigeria has a constitution but how constitutional is our democratic governance? To answer this question, the expository, hermeneutical and analytical methods are used. Relevant concepts, constitutionalism and democracy are examined, perspectives of political and constitutional developments in Nigeria since independence is presented and analyzed. It is discovered that most successive governments of Nigerian violated the principles of good governance and rule of law, etc., that define constitutionalism. But while most were under 'the military', it is not that abstract that truncated the course of true democracy; no, behind it were real men whose acts in government galvanized into a hegemonic structure in Nigeria. The history of monopoly of leadership in Nigeria reflects aggrandizement and unconstitutionality. It is recommended that credible and democratic institutions be put in place and sustained. Also, goodwill on the part of leaders is necessary to cause that perceived lapses of constitution are addressed, to ensure good governance and attain national unity.

**Key words:** *constitutionalism, democracy, development, structure, hegemony*

### **Introduction**

It could be said from the implications in the principles of identity and sufficient reason that a thing, process, system or institution is as successful or unsuccessful or succeeding or failing as it is constituted. Analogically, it could be said that *constitution and democracy* are related as constitutive and regulatory principles related to success or actualization of a being, system or process. Hence, it is said that he who desires an end requires a means. In this relationship is an interwoven rationale envisioned in the articulation of a constitution as and in function of democratic culture of governance in Nigeria. The paper evaluates the political culture in terms of the adequacy or inadequacy or willful but fragrant violations of the provisions of the constitutions. History attests to the contentious nature of the question of the constitutionality of governance in Nigeria. There was no successive government that did not raise afresh a questioning of the adequacy of the constitution and setting up a constitution review committee or calling for a

sovereign national conference in order to advance the course of democracy in Nigeria. To develop the paper to its logical conclusion we shall attempt conceptual and theoretical clarifications and examine the concept constitutionalism and present historical perspectives in Nigeria's constitutional and political development. The characteristic nature in the phases of her political and constitutional developments are taken as text for interpretative analysis. They represent objects of interpretation since they reflect intentionality and consciousness that inform why they are objects and ends of certain political actions/ inactions, and reactions.

### **Conceptual and Theoretical Framework**

The guiding principles of democracy are liberty, equality and law. The basis of the law is to ensure justice, "that it is just for the poor to have no more advantage than the rich; and that neither should be masters, but both equal." Liberty and equality are best attained "when all persons alike share in the government to the utmost. And since the people are the majority, and the opinion of the majority is decisive, such a government must necessarily be a democracy."<sup>1</sup>Realizing the depraved nature of different political systems: the monarchy, oligarchy, democracy, and aristocracy and polity or constitutional government, Aristotle opted for a fusion of the second and third, that is, a fusion of the "freedom of the poor and the wealth of the rich." He evokes the doctrine of the mean between the very rich and the very poor of the society and concludes that since "moderation and mean are the best," it is best "to possess the gift of fortune in moderation"<sup>2</sup>for it is the very condition of life in which "men are most ready to follow the rational principle."<sup>3</sup>In defining Constitution in his *Politics* as the "arrangement of magistracies in a state...and the constitution is in fact the government."<sup>4</sup>In his *Nicomachean Ethics* Aristotle states that the intention of the legislator is to "lead men to virtue", that is, "to make citizens good by forming habits in them." He adds: "those who do not effect it miss their mark, and it is this that a good constitution differs from a bad one. Again, it is from the same causes and by the same means that every virtue is both produced and destroyed, and similarly every

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<sup>1</sup> Aristotle, *Politics*, IV,4 ,1291<sup>b</sup>, 31-37. In *The Basic Works of Aristotle*, trans. By Richard Mckeon, New York: Random House Inc.,1941.

<sup>2</sup> Aristotle, *Politics*, IV,11, 1295b1-9

<sup>3</sup> Aristotle does not tell us whether this gap between the two cannot be bridged such that there is no question of mean? If people are ever contented with what they have there may be no framework for calculating the mean.

<sup>4</sup> Aristotle, *Politics*, 111, 6, 20-21

art.”<sup>5</sup> Thus, virtues are inseparable from the essence for a constitution or system of government.

The concept *democracy* (from the Greek *demos*, ‘people’ and *kratein*, ‘to rule’) literally, the ‘rule by the people’ is defined by Abraham Lincoln as “the government of the people by the people and for the people.” There is a history of associating successful democracy with ‘majority rule’ which according to Mill masks that in reality the greater number of people having “preponderance in property, and individually in intelligence, and may yet be held in subjection, forcibly or otherwise, by a minority in both respects inferior to it.”<sup>6</sup> Besides, Cunningham notes how in unbridled taste for power some ‘populist politicians’ easily mask authoritarianism and most repressive regimes, thereby becoming ‘tyranny of the majority. Generally, the *rule of* and *the people* are abstracts, “contentless and unstable” in meaning and are not “coextensive with any specified individuals, not even the majority at any one time.”<sup>7</sup> Disagreements about their exact meanings is due to the attachment of differently modifying categories in process of domesticating and defining democracy.<sup>8</sup> J.S. Mill advances the necessity of the principle of liberty in democratic institutions which will serve as “protection against the tyranny of the political rulers.” First, “certain immunities” that is, political rights of people are recognized and infused in the constitution and its infringement was considered a “breach of duty” on the part of the ruler. Second, “constitutional checks by which the consent of the community” or her representatives are articulated and established as “necessary condition to some of the more important acts of the governing power.”<sup>9</sup> Experience of political events in Europe as in the French Revolution justified this assumption that rulers are not

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<sup>5</sup> Aristotle. *Nicomachean Ethics*, translated by W.D. Ross, 2, 1, 1103<sup>b</sup>, 3-8. in *The Basic Works of Aristotle*.

<sup>6</sup> Mill, John Stuart. 1977. *The Collected Works of John Stuart Mill*, Ch.1, 381. Volume XIX - Essays on Politics and Society Part II, ed. John M. Robson, Introduction by Alexander Brady. Toronto: University of Toronto Press, London: Routledge and Kegan Paul. In <https://oll.libertyfund.org/titles/234> Retrieved 10/5/2020

<sup>7</sup> Cunningham, Frank. 2002. *Theories of Democracy, A Critical Introduction*. London and New York: Routledge. 19-20.

In [http://www.untagsmd.ac.id/files/Perpustakaan\\_Digital\\_1/DEMOCRACY%20Theories%20of%20Democracy~%20A%20Critical%20Introduction%20-%20Routledge.pdf](http://www.untagsmd.ac.id/files/Perpustakaan_Digital_1/DEMOCRACY%20Theories%20of%20Democracy~%20A%20Critical%20Introduction%20-%20Routledge.pdf). Accessed: 22/9/2020.

<sup>8</sup> Guillermo O’Donnell, *Democratic Theory and Comparative Politics*, Wissenschaftszentrum Berlin für Sozialforschung gGmbH (WZB) Reichpietschufer 50, D-10785 Berlin.10

<sup>9</sup> Mills, John Stuart. 2011. *On Liberty. The Project Gutenberg eBook of On Liberty* The Walter Scott Publishing Co., Ltd. London and Felling-on-Tyne. 2-3. In <http://www.gutenberg.org/files/34901/34901-h/34901-h.htm>. Accessed: 15/10/ 2020

identified with the people, their interest and will vary.<sup>10</sup> Obviously, the ‘people’ exercising political power are not always the same ‘people’ over whom it is exercised. Thus, the “will of the people’ can be subverted by “those who succeed in making themselves accepted as the majority: the people, consequently, may desire to oppress a part of their number.”<sup>11</sup>

Schumpeter argues against the claims of classical political theory centering on the proposition that ‘the people’ “hold a definite and rational opinion about every individual question and that they give effect to this opinion—in a democracy—by choosing ‘representatives’ who will see to it that that opinion is carried out.” This makes the selection of the people’s representatives secondary to the “primary purpose of the democratic arrangement which is to vest the power of deciding political issues in the electorate.” In reverse he makes “the deciding of issues by the electorate secondary to the election of the men who are to do the deciding.”<sup>12</sup> He conceives democracy as ‘political method.’ A *democratic method* as that “institutional arrangement for arriving at political decisions which realizes the common good by making the people itself decide issues through the election of individuals who are to assemble in order to carry out its will.”<sup>13</sup> In any case Schumpeter argues that “what we are confronted with in the analysis of political processes contrary to classical theorists is “not a genuine but a manufactured will”, adding that “the will of the people is the product and not the motive power of the political process.”<sup>14</sup> Moreover, there is nothing as “determined common good that all people could agree on or be made to agree on by the force of rational argument” because for “different individuals and groups the common good is bound to mean different things.”<sup>15</sup>

Marx argues against the egalitarian civil society emergent in Jean Jacque Rousseau’s *Social contract*. Contrary to the abstract notion of a political man and abstract citizen, he envisages the individual who is in his “sensuous, individual and immediate existence”; a social being “who realizes his own power as social powers” and can no longer be separated from himself as political power.” Hence, in the present -day bourgeois society ‘equal right’

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<sup>10</sup> Mills, John Stuart. 2011. *On Liberty. The Project Gutenberg EBook of On Liberty*, 5.

<sup>11</sup> Mills, John Stuart. 2011. *On Liberty. The Project Gutenberg EBook of On Liberty*. 6-7

<sup>12</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*, Introduced by Richard Swedberg. London and New York: Routledge. 269. In Taylor & Francis e-Library, 2003. <https://eet.pixel-online.org/files/etranslation/original/Schumpeter,%20Capitalism,%20Socialism%20and%20Democracy.pdf>. Accessed:10/25/2020

<sup>13</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*. 242-243, 250

<sup>14</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*. 263

<sup>15</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*. 251

is in principle *bourgeois right* and which is “burdened by bourgeois limitations.”<sup>16</sup> Thus, for Marx the subordination of the individual to a capitalist principle of division of labour is exploitative and exposes the limitations of capitalism.

Schumpeter opines that it is not true that “private control over the means of production” is the basis for the capitalist class’ to exploit labour and impose its “class interest upon the management of the political affairs of the community.” The inferences are, first, that there can be no democracy as long as that power exists; second, that the elimination of that power will at the same time end the “exploitation of man by man” and bring about the “rule of the people.”<sup>17</sup> Democracy is not an end in itself. It is not there to “serve certain interests or ideals for which we do mean to fight and die unconditionally.” Contrarily, Schumpeter argues that “rational allegiance” to the concept “presupposes not only a schema of hyper-rational values but also certain states of society in which democracy can be expected to work in ways we approve.”<sup>18</sup>

Thus, democracy is processual pursuant of certain human values in the society. It is necessary at this stage to examine the relationship between constitutionalism and democracy. In other words, taking constitution as *form* and democracy as *matter* how are the constitutive and regulative principles of the former played out in the latter?

### **Constitutionalism and Democracy in Nigeria**

What is constitutionalism? It would be recalled that three elements definitive of constitution are that it is a: supreme law of the land; framework for government; and legitimate way to grant and limit powers of government officials. The first connotes the supremacy of its legality. In the second, J.S. Mill conceives government as a “practical art” concerned with working out appropriate means to a desired end. The government defines the purposes she is required to promote and inquirers into *what* form of government that is “best fitted to fulfil those purposes.”<sup>19</sup> Beyond the idea of the supremacy of the constitution and as instrument the constitution is also perceived as legitimate instrument by which to grant and limit powers of government officials. In this vein Waluchow notes that constitutionalism implies that “government can and

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<sup>16</sup> Marx, Karl. 1956. *Selected Writings on Sociology and Social Philosophy*. T.B. Bottomore, (ed. & tr.) New York: McGraw Hill, 235-236, 256-257

<sup>17</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*. 235

<sup>18</sup> Schumpeter, Joseph A. 1976. *Capitalism, Socialism and Democracy*. 243

<sup>19</sup> Mill, John Stuart. 1977. *The Collected Works of John Stuart Mill*. 234

should be legally limited in its powers, and that its authority or legitimacy depends on it observing these limitations.”<sup>20</sup> Maru Bazezew attests to this core value, that constitutionalism “governs the legitimacy of government action.”

He explains that the idea of the limiting of governmental powers:

...far more important than the idea of legality that requires official conduct to be in accordance with pre-fixed legal rules. In other words, constitutionalism checks whether the act of a government is legitimate and whether officials conduct their public duties in accordance with laws pre-fixed/ pre-determined in advance.<sup>21</sup>

Importantly, it means that having constitution alone does not secure or bring about constitutionalism. While it is less likely that there are governments without constitution, there are many who have them and are not bound by its provisions. Hence, he opines that constitutionalism is far more important than a constitution. It requires that a government has one and its officials in their rights and in the exercise of the responsibility operate within the bounds of its provisions.

Bazezew articulates basic features which engrain the principles of constitutionalism in the following:<sup>22</sup> (i) By *popular sovereignty* is meant that the decision-making power of government is vested in all the people and not in any particular person or ruling class. This power is subject to those limitations imposed and removable by the expressed will of the people. (ii) *Separation of powers*: Constitutionalism ensures that power is not concentrated in any one of government. It is divided among the legislature, judiciary and executive. This is to avoid abuse of power, tyranny and dictatorship which normally creeps in monopoly of power. (iii) ‘Responsible and accountable government’ means that the people’s representatives, those in government diligently pursue, serve and protect their over-all interest. (iv) The *rule of law* according to Akanbi, it first means, “absolute supremacy or predominance of regular law as oppose to the influence of arbitrary powers”, second, the equal subjection of all classes of men to the laws of the land administered by the ordinary law courts, thirdly, that laws of the constitution are “not the source but the consequence of the right of individuals as defined

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<sup>20</sup> Waluchow, Wil, “Constitutionalism”, *The Stanford Encyclopedia of Philosophy* (Spring 2018 Edition), Edward N.

Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2018/entries/constitutionalism/>> Accessed: 20/ 7/2020

<sup>21</sup> Bazezew, Maru. “Constitutionalism”, *Mizan Law Review* Vol. 3 No.2, September 2009, 358 <https://www.ajol.info/index.php/mlr/article/view/145474/1350>. Accessed: 10/2/2020

<sup>22</sup> Bazezew, Maru. “Constitutionalism”, *Mizan Law Review*. Vol. 3 No.2, September 2009, 359-369.

and enforced by the court.”<sup>23</sup>Put differently, Bazezew, says it means that government officials “exercise their official duties and responsibilities in accordance with the law” which entail that: (a) all citizens are equal before the law (b) there is absence of arbitrary coercion by the government and (c) liberty of all individuals. It is not enough for the rights to be enshrined or recognized in the constitution; they must be “protected or defended through the medium of courts whenever these rights are infringed.”<sup>24</sup> (v) Individual Rights of people must be ensured and respected and be incorporation in the constitution and other laws not. These laws are not end in themselves but only means to an end. As such the courts must see to it that the rights are duly respected and protected. These are enshrined in Chapter 1: Human and People’s rights of *African (Banjul) Charter On Human And Peoples’ Rights* (which was adopted on 27th June 1981 and entered into force 21 October 1986).<sup>25</sup>The fundamental

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<sup>23</sup> Mohammed Mustapha Akanbi and Ajepe Taiwo Shehu, “Rule of Law in Nigeria” *Journal of Law, Policy and Globalization*. Vol 3, 2012, <https://core.ac.uk/download/pdf/234649539.pdf> Accessed: 10/7/2020

<sup>24</sup> Bazezew, Maru. “Constitutionalism”, *Mizan Law Review*. Vol. 3 No.2, September 2009, 365

<sup>25</sup>These rights include those of the: “enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status (art. 2); of equality before and protection of the law, (art. 3); “respect for his life and the integrity of his person”(art.4); “ respect of the dignity inherent in a human being and to the recognition of his legal status”, and prohibition of “all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.”(art.5); right to liberty and to the security of his person (art.6); have one’s cause heard which implies rights to: (a) of an appeal to competent national court against “acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force”; (b) “be presumed innocent until proved guilty by a competent court or tribunal”; (c) defense, including the right to be defended by counsel of his choice; (d) and right to be “tried within a reasonable time by an impartial court or tribunal.” (art.7); freedom of conscience, the profession and free practice of religion (art.9); right to free association (art.10), and assembly (art.11)” etc.

*African Charter on Human and Peoples’ Rights*, Nairobi June 27, 1981.246-247  
<https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf>. Accessed:10/2/2020

N/B: This Charter was signed by Nigeria on 31/8/1982 and assented to 22/7/1983, that is, 21 years after the provisions of the International Commission of Jurists on the Rule of Law in Africa known as *The Law of Lagos*, 1960 which took “cognizance of allegations that discriminatory legislation based on race, colour or creed exists to the detriment of fundamental human rights of large sections of the population.” Cf: *African Conference on the Rule of Law Lagos, Nigeria January 3-7, 1961. International Commission of Jurists, Geneva, 1961,16*. In <https://www.icj.org/wp-content/uploads/1961/06/Africa-African-Conference-Rule-of-Law-conference-report-1961-eng.pdf>. Accessed: 10/2/2020

human and people's rights are also enshrined in chapter four of the national Constitution.

(vi) Independent Judiciary: In order to perform the vital tasks of ensuring the respect of the rights of individuals, protect the rule of law, and to maintain the supremacy of a constitution there must be an independent judiciary. This ensures rule of law, respect of people's rights and separation of powers in government. (vii) The respect of the right of self-determination. This is the right of a culturally homogeneous and indigenous group who live in a defined territory to seek and determine their political and legal status and to decide which larger group to join. (viii) Civilian control of the military ensures that military leaders did not truncate democratic decision-making process by interfering with process of elections through coercive measures, military *coups d'etat* and militarization of the civil society. (ix) The police 'force' is to be governed by law and judicial control under the supervision of law courts. Though, it is their responsibility to ensure that peace and order reigns, bring wrong-doers to justice, etc. Constitutionalism requires that in discharge of their duties, they "honor and respect the rights, dignity and freedoms of individuals who must be presumed innocent until proved guilty by the competent court."<sup>26</sup> Let us next turn to 'Nigerian democracy in Nigeria'

Democracy is that "form of government in which the citizens elect representatives who will govern on their behalf and according to the wishes of the majority" of the people. Nigerian democracy will be 'the government of Nigerians by Nigerians for the peoples of Nigeria. Nigerian democracy represents a set of articulated ideology, principles and philosophical assumptions concerning the nature of the socio-cultural, political, moral, economic, religious, etc of the peoples in the Nigerian State. A system of government would be democratic if it possesses these basic features: popular sovereignty, political equality, popular consultation, majority rule and rule of law which are also features of constitutionalism. These reflect some fundamental values entrenched as objectives of the constitution. For instance, the "Fundamental Objectives and Directive Principles of State Policy" in Chapter II which provides in: section 14.(1) that the Federal Republic of Nigeria is a State "based on the principles of democracy and social justice"; (2) declares that (a) "sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its power and authority", (b) "the security of the people shall be the primary purpose of government"; and (c) "the participation by the people in their government shall be ensured in

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<sup>26</sup> Bazezew, Maru. "Constitutionalism", *Mizan Law Review*. Vol. 3 No.2, September 2009, 369

accordance with the provisions of this Constitution.” Section 14. (3) of chapter 11 also provides that the:

...composition of the government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic: or other sectional groups in that Government or in any of its agencies.

These: satisfy basic assumptions of obligation and responsibility the government owes to the people, represent core values which constitutionalism guarantees, and serve as ontological and rational grounds for democracy.

### **Constitutional and Democratic Developments in Nigeria**

Reference to the concept *development* entails an overview of the process and struggles through the stages of an unfolding of a reality from its initially given, its ontological constitutive principle to a blossoming. Thanks to history that within the perspective of fleeting moments of time the nature and quality of this unfolding is assessed as a historical consciousness. But consciousness of what? It is that which has been brought into the very definition, to characterize, capacitate or limit the state of *Being*. The amalgamation of the Northern and Southern protectorates in 1914 brought to the fore urgent need for political and constitutional development in Nigeria. But exactly what to do and how to come by it would have meant different things for Britain's protected interest and the nationalists whose egoistic and sectional interests were paraded as nationalism, each lashed out at the other. Sir Arthur Richards's Constitution (1946) introduced three regional political structure, Macpherson Constitution (1951), a quasi-federal state and under Lyttleton Constitution (1954) Nigeria assumed the status of a federal state. The 1957 and 1958 Constitutional conferences in London and Lagos, respectively, were in anticipation for 1960 Independence and 1963 Republican Constitutions. 1960 Constitution introduced the majority rule. Under this political framework whoever won majority support in parliament formed the government. It implies that the 'winner takes it all.' Intrigues and political ineptitude made void the principles of sovereignty, rule of law, and separation of powers among the tiers of government. These lapses accounted for the political violence that characterized and led to the collapse of the first Republic in January, 1966.

The military intervened in Nigerian politics from January 15, 1966 - October 1, 1979; 1983-1985 and 1993 -1999 through *Coup d'etats*. First, the January 15<sup>th</sup> *Coup d'etat* led by Major Chukwuma K. Nzeogwu failed and Major-General J.T.U. Aguiyi-Ironsi (Igbo & Christian, Jan. 16, 1966 -July 29,

1966) who took over as Head of the Federal Military Government was assassinated in a counter- *coup* led by Lt. Col. Murtala Muhammed. Lt. Col. Yakubu Gowon came in (M/ Belt & Christian, Aug. 1<sup>st</sup>, 1966- July 29,1975), was overthrown in a third *coup* by Murtala Mohammed (Hausa/Fulani & Muslim, July 29, 1975- Feb. 13, 1976) and was overthrown in a fourth *coup* led by Lt. Colonel Bukar S. Dimka (Middle-belt). It failed and General Olusegun Obasanjo ruled (Yoruba & Christian, Feb.13, 1976-Oct. 1, 1979). The 5<sup>th</sup> *coup* overthrew the 2<sup>nd</sup> Republic President Alhaji Shehu Shagari (Hausa/Fulani& Muslim, Oct.1,1979- Dec.31, 1983) ushered in General Muhammadu Buhari (Hausa/Fulani & Muslim, Dec.31,1983- Aug.27, 1985), was overthrown in a 6<sup>th</sup> *coup* that brought in General Ibrahim B. Babangida (Muslim Gwari (northern minority), Aug.27, 1985-Aug. 26, 1983) for eight years. General Sani Abacha (Muslim Kanuri, Nov.17,1993- June 8, 1998) led the 7<sup>th</sup> *coup* sacked the three months old Interim Head of State Chief Earnest Shonekam (Yoruba Christian, Aug.26,1993- Nov.17, 1993). Abacha died, General Abdusalami Abubakar (Muslim Gwari, northern minority, June 8,1998- May 29, 1999) came in as last military Head of state. Retired General Olusegun M. Obasanjo (May 29, 1999- May 29, 2007) came in again this time as civilian President, then Alhaji Musa Yar'Adua (Muslim Fulani, May 29, 2007-May 5, 2010), President Dr. Goodluck Ebele Jonathan (Ijaw Christian, Feb.9, 2010- March 28, 2015) and Retired General Muhammadu Buhari (March 28, 2015-till date).

The above trend interestingly reveals an operant hegemonic structuralism that is strategically maintained in the course of the nation's history. In this vein also it is important to consider what constitutional changes each government put in place?

On assumption of office as the Head of State General J.T.U. Aguiyi-Ironsi promulgated Decree 34 which abolished the federal regional structure and established a unitary system of administration. Its aim, C.C. Agbodike informs us, was to "do away with regionalism and its attendant ethnic and sectional loyalties which impeded efforts at national reconstruction and integration."<sup>27</sup> A Constitution Review Committee that he had set up headed by Chief F.R.A. Williams was overtaken by the military back-lash of July 29, 1966. In its wake an *ad hoc* conference on the constitutional future of Nigeria which General Gowon set up in September,1966 failed. General Gowon's military government was either unwilling or unable to handle the ethnic political crises that brew from the counter *coup d'etat*, the pogroms against the

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<sup>27</sup> Agbodike. C.C. "Federal Character Principle and National Integration." In *Federalism and Political Restructuring in Nigeria*. Edited by K. Amuwo, A. Agbaje, R. Suberu and G. Herault. Ibadan: Spectrum Books Ltd.1998, 178.

Igbo people, human rights abuses and breakdown of law and order, and unwilling to implement the Aburi accord which realism is on true federalism. This failure resulted in the July, 1967 to January, 1970 Nigeria- Biafran civil war which prosecution was hijacked and ethnically politicized.

General Murtala Muhammed set up a Constitution Drafting Committee of 50 in 1975. Its draft was deliberated upon by a 230-man Constituent Assembly (August, 1977- June 1978). After amending seventeen sections of it the Supreme Military Council on 21st September, 1979 promulgated it by Decree No. 25 as the 1979 Constitution of the Federal Republic of Nigeria.<sup>28</sup> Interestingly it introduced the concept “federal character”, independent judiciary, separation of powers and observance of the rule of law, among others, into the structure of the presidential system of government among others. Specifically, section 4 (i) and sec.4 (6) vested Legislative powers in the Federal and States Houses of Assembly, respectively; sec.5(i) and sec.5(2) vested the executive powers of the Federation States in the President and State Governors’ respectively; and sec.6 (1) and sec.6 (2) Judicial powers of the Federation and States in the Courts established for the Federation and States, respectively.

The 1979 Constitution had its lapses. A President or Governor who feels insecure may decide not to assign responsibilities or duties to his deputy on the flimsy reason that his deputy would not be able to handle them as effectively as himself.<sup>29</sup> Another problem was how to interpret the provision of section 134 that a presidential candidate shall be deemed to have been duly elected into the office “where there being more than two candidates (i) he has the highest number of votes cast at the election and (ii) he has not less than one quarter of the votes cast at the election in each of at least two-thirds of all the states in the Federation.” The problematic played out in interpreting the result of the presidential election of August 11, 1979 in which Alhaji Shehu Shagari is claimed to have had the highest number of votes cast but scored one-quarter of the votes cast only in twelve states.

The 1989 Constitution under General I.B. Babangida’s regime came in three phases: Political Bureau made up of 15 members was inaugurated on 13 January, 1986 organized a debate on Nigeria’s future political system, collated and synthesized public and government views in a report to the Constitution Review Committee which was inaugurated on September 7, 1987. A

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<sup>28</sup> Oyeleye Oyediran, Humphery Nwosu, Bala Takaya, Remi Anifowoshe, Femi Badejo, Godwill Ogboghodo, and Adigun Agbaje, 1991. *New Approach Government*. Ikeja: Learn Africa PLC. 162

<sup>29</sup> Ojo, D.J. 1998. “The Executive Under the Nigerian Constitutions, 1960-1995”. In *Federalism and Political Restructuring in Nigeria*. Edited by ‘Kunle Amuwo, et al., 305

Constituent Assembly (of 561 members 111 of which were nominated and 450 elected across the federal constituencies of the federation) reviewed the Draft and submitted it to the Armed Forces Ruling Council which promulgated the 1989 Constitution of the Federal Republic of Nigeria. Though it provides for separation of powers it vested all powers and authority in the person of the president, who moreover, appointed or caused to be appointment persons he chose to into key governmental positions. It was not specified how he does this reflecting the *federal character*. It included the Sharia judicial system into a secular state. Lastly, it made population the criterion for representation and basis for sharing privileges which is problematic knowing that initial census figures from which approximations are today made remain controversial. The rationality and spirit of Nigerian constitution are embedded the following commitment:

We the people of the Federal Republic of Nigeria: HAVING firmly and solemnly resolved: To LIVE in unity and harmony as one indivisible and indissoluble Sovereign Nation under God...: AND TO PROVIDE for a Constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of freedom, Equality and Justice, and for the purpose of consolidating the unity of our people: DO HEREBY MAKE, ENACT AND GIVE TO OURSELVES the following Constitution.<sup>30</sup>

### **How Constitutional is Democratic Governance in Nigeria?**

Ultimately, they would be used to evaluate the success of democratic governance in Nigeria.

#### **(i) Violation of the Principle of Social Justice and even Economic Development**

Chinua Achebe observed that with the Governor General, Sir James Robertson in charge of the making of successors to the colonial powers “popular faith in democracy was compromised from its birth.” Achebe was referring to 1962/63 national census crisis which the Governor General “outrageously stage-managed,” manipulated its figures, and how he oversaw to the rigging of independence elections in order to install a choice Prime minister so that on the eve of colonial handover, “power went to that conservative element in the country that had played no real part in the struggle for independence.” This prompted Achebe’s reflections in *A Man of the People*, and Wole Soyinka’s

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<sup>30</sup> *Constitution of the Federal Republic of Nigeria, 2011 Constitution (As Amended) With the National Industrial Court, Official Gazette. 4<sup>th</sup> March, 2011. xx-xxi.*

satire, *Before the Blackout*, among others.<sup>31</sup>This was step in laying neo-imperial *structure* in Nigeria, a scenario that is yet to be altered. Recall, at Ibadan Conference (1950) which was brought about by the northerners “who maintained that the country might eventually be dominated by the more educated southerners” delegates from the three regions set up a committee that recommended that 45, 33 and 33 seats in the house of representative for North, East and Western regions, respectively. The North wanted more. The Emirs of Zaria and Katsina in the delegation moved and seconded a motion, respectively, that “since the population of the North was more than that of East and West combined, half of the total seats in the legislative assembly should be filled by northerners. After much debate, argument and deliberations, the request of the northern delegates was granted.”<sup>32</sup>Amadi recounts of how the Lord Lugard implemented the British evil plan of assigning higher population figure to the North rather than the South for continued imperial interest, in the so called ‘Skeleton plan.’<sup>33</sup>

The census result of 1952/53 was the basis for which 174, 73, 62, and 3 out of 312 seats in the house of representatives were ‘allocated’ to the North, East, West, and Lagos, respectively. Politicians from South looked forward to levelling off the North’s absolute majority come May 13, 1962 census. But Mr. T. Warren, the British official in-charge of Census Commission in Lagos “declared that only the northern figures were reasonable.” This declaration led to such outcry that the prime minister cancelled the whole exercise and ordered for a fresh one. The result of the next exercise 5<sup>th</sup>-8<sup>th</sup> September, 1963 was released on 24 February, 1964, the North had 29, 777,986, East 12, 388,646 (same as in 1962), West (and Mid-west) 12,811,837, and the federal Territory 675,32 million people. This represented 67%, 65%, and almost 100% in ten years’ population increase respectively, for the North, East and West. The premiers of the Eastern and Mid -western regions, Dr. Michael I. Okpara and Chief Dennis Osadebey rejected the figures. Dr. Okpara’s suit against the

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<sup>31</sup> Achebe, Chinua. 2012 *There Was A Country, A Personal History of Biafra*. London: Penguin Books Ltd. 50-52.

<sup>32</sup> Oyeleye Oyediran, Humphery Nwosu, Bala Takaya, Remi Anifowoshe, Femi Badejo, Godwill Ogboghodo, and Adigun Agbaje. 1991. *New Approach Government*. Ikeja: Learn Africa PLC. 170

<sup>33</sup> Amadi-Azuogu, A. 2018. *The Un-United States of Nigeria. Restructuring- The Way Forward*. Ikeja: iClem Media Limited. 277-312. The authored is referring to the scheming, rigging and manipulation that characterized Britain’s agenda to election and census results/ figures to make sure that the South didn’t get the lead in administration of the country.

Federal government which maintained that the census was conducted in an “unconstitutional manner” was dismissed by the Supreme Court.<sup>34</sup> The figures were accepted by premiers of the North Sir Ahmadu Bello the Sardauna of Sokoto and West, Chief Samuel L. Akintola, and the Prime minister Sir Abubakar Tafawa Balewa who announced it as official census figure result. The acceptance of 50%: 50% landmass ratio between the North the South and these census figures engrained a principle of “political immobilism”, that is, a “liberal veto for the North” serving as the locus of political power and yardstick for state creation and allocation of revenue, among others in Nigerian democratic politics.

### **(ii) Politics of States Creation**

‘What problems were the creation of states in Nigeria supposed to solve? Every region has a major ethnic group and one or more minority group(s). Ethnic minority groups in Nigeria have always expressed fears of being dominated by the major ones in the regional government.<sup>35</sup> Mr Willink Commission set up in 1957 acknowledged the reality of this fear but advised against creation of new state or more regions since such would not solve the problem. It recommended carving out ‘special area’ for Rivers province, ‘minority areas’ for Benin province along with Urhobo Division and Calabar province, while a plebiscite determined whether Ilorin and Kabba provinces would be joined to Western region. State creation in Nigeria steadily became major framework at the hands of most of her leadership for political and economic inequity. This framework links others to maintain a politically driven hegemonic structuralism in Nigeria polity. Consider, for example, that in: (i) May 1967 creation of 12 states: 6 from former Northern region, 3 from Eastern, 2 from Western and 1 from Mid-western regions; (ii) April 1976 creation of 19 states (under Gen. Murtala Mohammed), it is: 10, 4, 1 & 4 from North, East, Mid-west and Western regions, respectively; (iii) 1987 (only Katsina and Akwa-Ibom were created); (iv) 27<sup>th</sup> August, 1991 creation of 9 states (by Gen. I.B. Babangida): 5, 2 & 2 from North, East and West, respectively; and (v) on 1st October, 1996 creation of 6 states (by Gen. Sani Abacha) we have: 3, 2 & 1 in North, East and West, respectively. This trend

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<sup>34</sup> Nwankwo, B.C.1992. *Authority in Government, Nigeria and World Politics in Focus*. Makurdi: Almond Publishers. 208-209.

<sup>35</sup> The main ethnic minority groups are Ibibio, Kanuri, Tiv, Nupe, Edo, Ijaw, Urhobo, and Itshekiri. In the Northern region the ‘Borno Youth Movement’ called for the creation of Borno region; Joseph Tarka led the ‘United Middle Belt Congress’ called for the ‘Middle Belt’; while Josiah Olawoyin led ‘Ilorin Talaka Parapo’ demanded that Ilorin and Kebba be amalgamated with the Western region. In the Western region the then Oba of Benin, Akenzua II and later NCNC agitated for the creation of Mid-west Region. In the Eastern region the ‘United National Independent Party’ demand for the creation of Calabar-Ogoja-Rivers region.

justifies the view that most of the successive governments' in Nigeria are characterized by "overpowering statism." This means that political power equals economic power; economic power is the pathway to political power. It behooves on a centralized-state operative system to put in place a distributive framework to ensure equity recruiting, constituting and disbursement of political power and economic resources. A government that failed to do so only pretended not to have mocked our democratic governance operating on the principles of federalism. Suberu observed that rather than ameliorate the fear and agitations, changes in the "internal territorial configuration of the country's federal system in terms of creation of more states have "tended to increase and intensify with each round of reorganization."<sup>36</sup>

### **(iii) The Politics of Revenue Allocation**

The question of resource control, revenue mobilization and allocation has always been contentious in Nigeria. Fiscal and budgetary arrangements as well as reports/ recommendations of different committees and commissions on revenue allocation were skewed and perceived, more or less through ethno-cultural lenses. Different Committees and Commissions have been set up in Nigeria<sup>37</sup> and these came up with such principles as: "even progress, need, national interest, independent revenue, fiscal autonomy, equality of status of states, geographical peculiarities, population, minimum responsibility of government, financial comparability and balanced development."<sup>38</sup> These were generally unacceptable either due to illogicality, inconsistency, or that they were ambiguous, impractical, indefinable, immeasurable, vague or inequities. The recommendations of the Presidential Commission on Revenue Allocation (1979) headed by Pius Okigbo adopted in 1981 as Revenue Act by the Parliament is thus: federal government 55%; equality of states 30.5%; Local Governments 10%, and Special funds 4.5%. In 1992 the Armed Forces

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<sup>36</sup> Suberu, R.T. in eds. K. Amuwo *et al.*, *Federalism and Political Restructuring in Nigeria*, 276.

<sup>37</sup> For example: Phillipson Commission (1946) which provided the administrative and financial system for the Richard's Constitution; McPherson Constitution (1951) which anticipated the financial regulatory provisions of Hicks-Phillipson Commission; Chick Commission (1953) which anticipated the Lyttleton Constitution (1954); Raisman Commission (1958) which anticipated Nigeria's independence; and Binn's Commission (1964). The post -independence committees include the: Interim Revenue Allocation Review Committee (IRARC) (1968) under General Gowon headed by I.O. Dina; Technical Committee on Revenue Allocation (1977) under General Olusegun Obasanjo headed by Aboyade and the Presidential Commission on Revenue Allocation (1979) under President Alhaji Shehu Shagari (1980) was headed by Pius Okigbo.

<sup>38</sup> Adesina, 1998. In K. Amuwo, R. Suberu, A. Agbaje, and G. Herault (eds.). *Federalism and Political Restructuring in Nigeria*. Ibadan: Spectrum Books Limited. 233-234

Ruling Council (AFRC) accepted the recommendations of the National Revenue Mobilization, Allocation and Fiscal Commission (NRMAFC) in the ratio: Federal Government 48.5%; States 24%; Local Governments 20%; and Special funds 7.5% which includes development of oil producing areas (3%) and 1.0% shared among mineral producing states on derivative basis. Within the 1980s the criteria for distribution were: (i) Population 40%; Social development factor 15%; Internal revenue effort 5%; Local governments, 40% and was later adjusted as: equality of states 40%; population 30%; internal revenue effort 10%; Social development factor 10%; land mass and terrain 10%. From 1980 to 1989 Kano state received the highest allocation of 7.2% which is a “figure that is marginally above the shares of Bendel and Rivers States that each received 7.14%.” In the 1990’s the shares of Kano, Katsina, and Rivers topped those of other states.<sup>39</sup> The failures of the different Committees and Fiscal Commissions was due to corruption and abuse of political power. It explains why the issue is recurrent and never been justifiably addressed because the leadership lacked the goodwill, honesty and transparency it demands.

#### **(iv) Problem of Election and Leadership Selection**

Achebe succinctly opined that the trouble with Nigeria is squarely that of leadership, “the unwillingness or inability of its leaders to rise to the responsibility, to the challenge of personal example”<sup>40</sup>, and in *There Was A Country* remarked that but for the few like Mallam Aminu Kano, “the vast majority of characters I encountered in the political circles were there for their own selfish advancement.”<sup>41</sup> Election does not make a man good, but through the process the good men who are elected to lead. Hence, Achebe called for: a “version of campaign election and campaign finance reform” that transforms the structure of political system from the “grassroots level right through to the national party structures at the federal level”; doing away with the archaic and corrupt culture of godfatherism who sponsor and push their ill-chosen candidates through into “desired political positions”; make sure the electoral body is composed of credible, “respected and competent officials chosen by a

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<sup>39</sup> G.A. Mbanefoh and F.O. Egwaikehide. 1998. “Revenue Allocation in Nigeria: Derivation Principles Revisited” in eds. K. Amuwo, *et al.*, 216-218

<sup>40</sup> Achebe, Chinua. 1983. *The Trouble With Nigeria*. Enugu: Fourth Dimension Publishing Co., Ltd. 1

<sup>41</sup> Achebe, Chinua. 2012. *There Was A Country, A Personal History of Biafra*. London: Penguin Books Ltd. 244

nonpartisan group free of governmental influence or interference”; and to open up the political process to allow for grassroot and public participation.<sup>42</sup>

**(v) Violation of the Secular State Principle**

In chapter two “Religion, Ethnicity and Power Struggle” John O. Odey chronicled the woes of Nigerian under shackles of a hatched and systematic implementation of an agenda to turn Nigeria into an Islamic state<sup>43</sup> which violates the secular status of Nigeria and the Sovereignty of her Constitution.<sup>44</sup> There was the “devastating and murderous Maitatsine riots<sup>45</sup> of the 1980s” and the clandestine manner in which General Ibrahim B. Babangida highjacked and enlisted Nigeria into full membership of the Organization of Islamic Conference (OIC) in 1986 through the ‘**emissary**’ of Rilwanu Lukman (then minister of petroleum) in Jeddah, Saudi Arabia; General Sani Abacha in January 1997 through a delegation to Istanbul, Turkey smuggled Nigeria into membership of the Islamic D-8 league of nations; Alhaji Ahmed Sani Yerima (governor of Zankara state)’s audacity to impose the sharia law in the state (for personal and political aggrandizement) and the February 21, 2000 wanton destruction of lives and property in Kaduna by Muslims which caused a reprisal attacks in Kaduna, Kachia, Aba and Umuahia. Alhaji Shehu Shagari and General Muhammadu Buhari granted press conferences/ interview, respectively. The former dissociated himself from the decision of the National Council of States (NCS) on February 29, 2000 to suspend the sharia law and argued that in a democratic system the government has no right to direct suspension or rescission of the imposed sharia law. General Buhari had denied that sharia was discussed at the meeting and warned, according to Odey O. J. that “the exercise of the sharia law is a fundamental right of Muslims and that on no account should law enforcement agents be sent to shoot Muslims for exercising such a right.” Alhaji Umaru Dikko gave a nod to these positions. Alhaji Rabiu Kwankwanso followed suit and signed the sharia bill into law in Kano state. With the sharia law came the enthronement of Boko Haram in 2002 which served to ‘fight’ President Olusegun Obasanjo (whose regime the

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<sup>42</sup> Achebe, Chinua. 2012. *There Was A Country, A Personal History of Biafra*. 245

<sup>43</sup> Odey Okwueze J. 2015. *The Amalgamation of 1914 and the Scapegoat Mentality. Religion and Politics in a Multi-Ethnic Society*. Enugu: Snaap Press Ltd. 35-39

<sup>44</sup> The latter states in section 38 (1) that: “if any law is inconsistent with the provisions of this constitution, the constitution shall prevail and that law shall, to the extent of this inconsistency, be void.”

<sup>45</sup> It is named after one Muhammadu Marwa who is said to be a Camerounian by birth and who came to live in Kano in the 1962. The riots which ravaged the cities of Kano, Kaduna, Kafanchan, Bulunkutu, Jimeta, Bauchi and Maiduguri according to Odey O. John claimed 4,177 lives.

Hausa –Fulani claimed been marginalized) and to frustrate Goodluck Ebele Jonathan’s administrations and to advance Muslim interests.<sup>46</sup>It is instructively reminiscent that in 1942 the conference of the Northern Chiefs in response to request from west African Students’ Union (WASU) asking support for constitutional evolution of Nigeria into full independence noted “Holding this country together is only possible by means of the religion of the prophet. If they want political unity let them follow our religion”<sup>47</sup>a position reiterated in 1944 by the Sultan of Sokoto, Alhaji Ahmadu Bello when WASU delegation sought his support for the memorandum on constitutional reforms, that: (i) “those Southerners who desire a united Nigeria should first embrace Islam as their religion.”<sup>48</sup>The manner of most succession of Heads of State, retired army Generals and civilian Presidents in the history of Nigeria was not just an ordinary outcome of a political process. It is a scenario reflective of a domineering ideology and agenda which remained in force since the 1950s. It is not a nationalist agenda but that which Chinweizu calls Sokoto ‘Caliphate ideology and agenda’<sup>49</sup> and this is inconsistent with the principles of social justice and solidarity.

### **Evaluation and Conclusion**

A resume from the fore-going understands the constitution as constitutive and regulative of a political framework that ensures the realization of its set objectives. The principles of constitutionalism strengthen this operative rationality such that the goodwill of the leadership of any government suffices to augment any inherent lapses in a given constitution. The people are the instrumental and final cause of the constitution. First, it points to the definitive ordering of the human mind simply because we are rational. It is an ontological grounding often taken for granted. Secondly, it prevents arbitrariness in the democratic process. The human mind can be beclouded and entangled in nonrational attempts to solving the exigencies of human wants. As it is said,

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<sup>46</sup> Odey Okwueze J. 2015. *The Amalgamation of 1914 and the Scapegoat Mentality. Religion and Politics in a Multi-Ethnic Society.* 43-44ff

<sup>47</sup> Obafemi Awolowo. 1947. *Path to Nigerian Freedom.* London: Faber and Faber, 51 by Chinweizu C. 2015.

*Caliphate Colonialism. The Taproot of the trouble with Nigeria.* Ikeja: Clear Coast Communications. 21

<sup>48</sup> Coleman, James. 1971. *Nigeria: Background to Nationalism.* Los Angeles and London: University of California. 361 cited in Chinweizu, C. 2015. *Caliphate Colonialism. The Taproot of the Trouble with Nigeria.* 21

<sup>49</sup> Chinweizu C. 2015. *Caliphate Colonialism. The Taproot of the Trouble with Nigeria.* 11, 21 ff

the law is made for man and not the other way round. It is this rationality that is envisioned when the Constitution provides that:

- (a) Sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority; (b) the security and welfare of the people shall be the primary purpose of government; and (c) the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.<sup>50</sup>

The historical accounts of constitutional and democratic/ political development in Nigeria seem to negate the rationale encapsulated therein. It is as Emmanuel Kant would say, we have a *content* (democratic body politics) without a *form* and what a bizarre system it would be. The country has largely been governed by Hausa/ Fulani Muslims whether military, retired Heads of State or civilians. Such is an orchestrated process of succession sustained by military might, *coups d'etat* and manipulation of election results. Generally, the political landscape of Nigeria especially under the military have been characterized by political inequity, sectional and lop-sided appointments, violation of the principles of rule of law, human rights, the 'federal character,' etc. Hence, unconstitutional governments tottering towards totalitarianism.

Worsening the matter are recent outbursts and threats of Islamization, imposition of sharia law, terrorist attacks all in a bid to frustrate non-Muslim led government seems to be in furtherance of the position of Islamic founding fathers in Nigeria that the reins of power must remain in the North and that except the rest of Nigerians accept Islam there is no question of an inclusive Nigeria. To insist on these is to raise questions on renegotiate the principle of indivisibility, national unity and our corporate existence as a country. A lawless state of affair as political hegemony, totalitarianism, dictatorship, brews political conflicts and agitations, wars and terrorisms, etc. The fear of domination and marginalization ignited by our cultural heterogeneity can only be assuaged by a constitutional democracy founded on the principles of true federalism which meets the common aspirations of the peoples, ensure respect of the cultural rights of indigeneity, allay fears of domination and marginalization, and galvanize the country into a united sovereign State based on the principles of social justice. This can only happen if imperial colonial structure bequeathed by Britain and the sectionally home-grown variant hegemony is let go. It is inconsistent to realize that these structures still exist and function with nihilist effects and the other who suffers them remain unconcerned. Therefore, the future of Nigeria must continue to be negotiated;

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<sup>50</sup> *The Constitution of the Federal Republic of Nigeria*, 4<sup>th</sup> March, 2011 (As Amended) With the National Industrial Court. Ch.11, section13 & 14(1 &2), p.16

at each point we reappraise the initial assumptions and promises enshrined in the constitution. Our Muslim ‘brethren’ by now ought to be demonstrating good faith in the corporate existence of Nigeria, and to dissociate themselves from neo-imperial seeking caliphate expansionist ideology that:

The new nation called Nigeria should be an estate of our great grandfather, Uthman Dan Fodio. We must ruthlessly prevent a change of power. We use the minorities of the North as willing tools and the South as a conquered territory and never allow them to rule over us, and never allow them to have control over their future.<sup>51</sup>

After the failed *coup d’etat* of January 1966, the former Northern, Western and part Mid-Western regions declared war against Biafra. Ever since the end of the war, the entire South and specifically, the Igbo people have been terribly marginalized, treated as a conquered territory and some of Nigeria’s leaders have treat the Niger Delta, part of former Biafra, as a “captured or conquered territory and the oil wealth as war booty/ spoils of war to be shared among the members of the military, the conquering force of occupation.” This informs why military operations has continued in the area and why “military elites and Northerners own not less than eighty percent of the oil wells.”<sup>52</sup>

By all standards, the distribution of national resources and revenue based on spurious population figures, on land mass and number of local government areas entrenched in the constitution and adopted since the inception of military rule in the country is not just and equitable. Given this inequity, the 1999 Constitution failed to secure peace and stability and to promote even development and good governance in Nigeria.<sup>53</sup>

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<sup>51</sup> Statement is credited to Sir Ahmadu Bello, leader of NPC and former Premier, Northern Nigeria. *Parrot Newspaper*, 12<sup>th</sup> Oct. 1960; republished on Nov. 13, 2002, by the *Tribune Newspaper*, Ibadan. Cited by Chinweizu C. 2015. *Caliphate Colonialism. The Taproot of the Trouble with Nigeria*.1

Within the next six years a report of Jihadist agenda by the Northern political, religious and military elites planned for January 17, 1966 was received purportedly to eliminate political stalwarts and senior military officers from the Eastern and Mid- West and Western controlled NCNC and her allies was a reason for the January 15, 1966 *coup* was set to truncate ahead of time. See Nwala, T. Uzodinma (ed.). 2018. *The Nigerian January 1966 Coup and Biafra, Myths and Realities*. Enugu: Immaculate Press Services. 44

<sup>52</sup> Onwuazombe, Ifeanyi I. 2017. “Human Rights and Abuse in Nigeria: A Case Study of the Oil-Producing Communities in the Niger Delta Region” *Annual Survey of International and Company Law*. Vol. XXII. <https://digitalcommons.law.ggu.edu/annlsurvey/vol22/iss1/8.37> ff

<sup>53</sup> The 1979 Constitution gave rise to that of 1999 and came under the mastermind behind July 29, 1966 and 1975 *coups*, who, on Oct. 18, 1975 announced agreement of the Supreme Military Council that Nigeria adopts an executive Presidential system of Government which formed the basis of Presidents Shehu Shagari, Olusegun Obasanjo, Umaru Yar’ Adua, Goodluck E. Jonathan, and Muhammadu Buhari’s Governments. For a comprehensive articulation of the subject matter see chapter Eight in Chukwuemeka I. Onyesoh (2017) *To the Rescue-The Rights to Self-*

As it were there have been consistent calls from the South-West, South-South, South-East and even the Middle-belt to restructure the country and provide her with a new constitution. To weather through these rough parts, Nigerian leaders must cultivate the spirit of selflessness, goodwill, good sense of reasoning regarding politics. The political leaders are Plato's *statesman*. The statesman is 'spirited' and always desirous and in search for the truth, justice and wisdom of things. These dispose him to make sound judgements about political matters also. His sound knowledge capacitates him as a Guardian of the State and disposes him to act like a philosopher-king and to "care for human society and to rule over men in general."<sup>54</sup>

Every constitution is as good as it is meant to constitute and regulate. It takes the courage and goodwill of a leader to provide protection of lives and property, equity, respect for human and people's rights. A hegemon is not a democrat. The former eschews rule of law, constitutionalism, equity and co-existence within the political society. Hegemony operates within a structure: ideology, self-seeking set of agenda, repressive power of the press and weakened judiciary. Perception of a less of the determinate role of constitutionalism to drive home good governance in Nigeria amounts to false consciousness. For long we have lived with the opium 'dividend of democracy.' It is trumped up every now and then. But what it does translate to is elusive to grasp in our democracy.

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*Determination, the Pathway to a Genuine Federation of Peoples With no Shared Values*. Enugu: Forum for Promotion of National Ethos and Values, 391-416.

<sup>54</sup> Plato, 1974. *The Republic*. Trans. by Desmond Lee. (2<sup>nd</sup> edn.) London: Penguin Books Ltd. *The Republic*, v11, V, 475c