

**CONTRIBUTIONS OF LEGISLATIVE PROCESS,
INTER-GOVERNMENTAL RELATIONS &
RULE OF LAW TO GOOD GOVERNANCE IN
NIGERIA**



BY

DR. C. N. ODOCK (READER)
DEPARTMENT OF POLITICAL SCIENCE,
FACULTY OF SOCIAL SCIENCES
UNIVERSITY OF CALABAR CALABAR

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Reference

1. Introduction

It is now a widely accepted dictum that a democratic order is the one that can guarantee the full realization of good governance not only because of the essential features of democracy: written constitution, the separation of powers, an independent judiciary and the rule of law (Adamolekun 2002, chapter 1); but also because of the procedures employed by actors in the democratic process namely, negotiation, bargaining and compromise (International IDEA, 2000). Experience however, has shown that over the years the practice of democracy in Nigeria has created a number of anxieties which impact directly on the actualization of good governance and the prospect of sustainable development.

It can be argued that, many of the anxieties of democracy experienced in Nigeria derive mainly from the conjugation of two types of challenges confronting African State: the challenges of political development identified by Elaigwu as state-building and nation-building, emanating from the diversity of African countries which have compelled some leaders to adopt unitary and federal government as policy choices; (Elaigwu 2012:7-9) and the challenges of African governance as elaborated by the 7th African leadership forum reported by Okeke (2010:3-6).

The challenges of African governance which Okeke (2010) enumerated include the following:

- i. Improving the effectiveness and integrity of the electoral system
- ii. Strengthening the mechanism for popular participation
- iii. Enhancing parliamentary and local governance processes and systems
- iv. Creating sustainable, accountable, transparent and responsive institutions of the judiciary, legislature and the executive
- v. Enhancing human rights, human security and the rule of law
- vi. Preventing, managing and resolving conflicts
- vii. Re-establishing the rule of law and addressing impunity
- viii. Investing in social development, particularly education, health, water and sanitation, and housing.
- ix. Promoting growth and equity by responding to the need of the socially vulnerable groups.
- x. Fast tracking infrastructure development, particularly roads, power and telecommunications.
- xi. Enhancing efficiency and effectiveness in social services delivery.
- xii. Strengthening economic governance institutions and improving their management.
- xiii. Ensuring effective management and equitable and transparent utilization of natural resources.
- xiv. Promoting and empowering civil society.
- xv. Addressing unfair terms of global trade with a view of enchainning a level playing field in international trade and commerce.
- xvi. Bridging the digital divide through allowing African countries to gain access to ICT innovations in a manner that is fair and equitable.

- xvii. Attracting foreign direct investment (FDI) and
- xviii. Promoting gender equity, including domestication all ratified international conventions related to gender, reforming property laws and revoe gender biases, improving access to social and economic resources (e.g. education, land, credit) and halting traditions and culture practices that hinders women development.

We need to state the fact that, although all of the above governance's challenges are very relevant to any discussion of good governance, not all of them will be the subject of our discussion but items number II-VI will be the special focus of our discussion.

It is interesting that, Okeke in the work under reference went on to identify some features of good governance which agree largely with the UNDP conceptualization of good governance namely:

- i. Accountability
- ii. Inclusiveness
- iii. Equity and social justice
- iv. Observance of the rule of law and due process
- v. Legitimacy of political, economic and administrative authority
- vi. Effective institutions
- vii. Purposeful leadership and
- viii. Security and order

It can be argued with some sense of responsibility that for any democratic order to fill its mission of delivering good governance and sustainable development to the citizens, the contributions of these related institutions: the legislature, sound related among the tiers of government and the rule of law will need to function un such a way as to sustain, support and reinforce each other. It is for these reasons that each of them raise and generates different types of anxieties in Nigeria.

Let us examine briefly the types of anxieties that are associated with each of these processes.

2. Legislative Process

Understood in the most direct terms the legislature is that arm of democratic government that is responsible for giving voice and representation to the citizens or populace of the country in parliament whether it is unicameral or bicameral. In addition to all this important function of the legislature, it also enacts laws for the good governance of the country; and finally, the legislatures are charged with the responsibility of oversight function on the activities of the executive branch. These three fold responsibilities of the legislature are actually an abbreviation for most legislatures now perform several additional functions such as; Quasi executive and quasi-judicial function. For example, another student of the legislature has suggested that "Governance goals of greater accountability, transparency and participation are directly related to the three principal functions" (Islam 2008); hence the strategic important of the legislature in a democracy.

Experience of the working of the legislature in Nigeria, since 1999 has raised a number of anxieties.

- i. Can the legislature in the country at all levels; actually represent all shades of interest, opinion and groups in the country? The answer to this question is that in addition to other weakness that are directly related to the practice of electoral system, the main problem has to do with the strategic choice of the first past the post simple majority electoral system, that seems to privilege the major parties while nullifying the votes of the micro parties as was witness during the 2015 and previous general elections. Can a system proportional representation as suggested by various observers on electoral reform provide the answer to the question of effective and full representation of all Nigerians? The difficulties associated with the practice of proportional representation as experience in Italy and other European countries does not strongly recommend the system for adoption in Nigeria.
- ii. The second anxiety that has emerged from the legislature process in Nigeria has to do with the substance of legislation that preoccupies the legislature and results from the process. What is the quality and quantity of laws that are passed by the various legislatures in the country?
- iii. Do they squarely the need, issues, concerns and worries of the generality of the citizens and how to impact and transform their lives positively? Or
- iv. Are the various legislators so preoccupied with their peculiar benefits, salaries, allowance, privileges and other perks of office?
- v. Fourthly, what is the time that legislatures at state and national levels take to pass a bill, for example the financial appropriation bill? It is a short, average or long cycle? The most important consideration in this regard is to ascertain the main point at which responsibility for the success or failure of the legislative process can be located: is it mainly the legislature or other agencies of government? (Onah, 2015)
- vi. In the discharges of the oversight functions does the legislature actually inspect, scrutinize and assess what the executive branch has done with appropriated funds, or do they exploit the opportunity meet their personal demands and assuage the urge to acquire more personal income?

Perhaps a relevant response to these challenges and anxieties were provided by Awah in her 2013 address to the pan African parliamentary conference on capacity building where she emphasized the “Crucial role legislation in the promotion of democratic government ...” (Awah 2013).

“No country can long have a workable democracy (with opposition, accountable government, and adequate avenues for citizens to be heard) without a vibrant and meaningful legislature and legislative process, this is so because of the multiple functions which are profound by the legislature in ensuring that the will of the governed prevail in the conduct of government”.

Some of the ideas put forth in the paper under consideration are note worth of careful reflection by contemporary Nigerian legislators.

In addition to the suggestion made above to help the legislatures and legislators to make their work more relevant to the needs of the electorate, we can also put in perspective this consider suggestions by a Lagos lawyer, Wahab Shittu to commend the adoption of a legislatives agenda by the house of representative in the National Assembly.

“Any serious-minded legislature ought to be preoccupied with three fundamental functions namely; effective representation, effective law making and effective oversight responsibilities. These are the core functions of any responsible legislature in a democratic setting. It is not the function of the legislature to turn the hallowed chambers to avenues for wresting and boxing competitions. Nor is it the function of a responsible legislature to share money or carry “Ghana must go” bags containing items of dubious origin (Shittu 2014)”.

3. Inter-Government Relations

Intergovernmental relations defined simply as “the relations between different levels or tiers of government in the same country” who may include national, state and local government, or different valuations of the same theme (Bell, 2014; Chiamogu 2011; and Najir, 2012) have been the subject of much discussion in Nigeria. The significant of the tiers of government and the quality of their interactions for the realization of good governance sustainable development derives from both the nearness of the lower tiers to and their impact on the vast majority of citizens and their contribution to sustainable development.

Hence, the need to constantly readjust local government, perhaps as a result of the complexity of the issues that are involved in the administration of intergovernmental relations in Nigeria such as;

1. The increasing centralization power in the constitutional distribution of responsibility in the country (Akinsanya 1999; Najir 2012; and Absoble 1996)
2. The dialectic between the theory and practice of intergovernmental relations (Bello 2013).
3. The ever expanding subject and issues which attract the attention and have to be dealt in the domain of intergovernmental relations (Chiamogu et al 2011) and
4. The problem of revenue and resources allocation in Nigeria over the decades (Osagie 2013).

The subject of intergovernmental relations in Nigeria tends to generate quite a number of anxieties that various constitutional amendments are still grappling with, for example:

- I. Should the extant Nigeria Constitution give recognition to only two or three of government? Whatever formula is chosen over the other will have serious implications in relation to the number of units involved in the politics of intergovernmental relations and autonomy, efficiency and effectiveness of the country's democratic governance and its impact on sustainable development.

- ii. A second type of anxiety derives from how to find the most appropriate model of intergovernmental relation that will ensure the optimum efficient, effectiveness and yield beneficial result in the delivery of goods and services to the ordinary citizens of the country. Hence, we must note that by historical experience, Nigeria has practiced the inclusive authority model of intergovernmental relations for the longest duration since independence owing to the long period of the country's transition away from democracy.

However, the short duration of experiments with the coordinate authority model often ended in gross abuse or competition among the various tiers their actors. Unfortunately, most actors in Nigeria's intergovernmental relations have hardly accepted whole heartedly the overlapping authority model which is less rigid and allows actors greater flexibility in managing intergovernmental relations and setting disputes.

- iii. A final anxiety that the subject of intergovernmental relations elicits with regard to Nigeria's democracy and good governance is the challenge of vertical and horizontal fiscal imbalances and how to achieve horizontal and vertical fiscal balance. This problem raises the further problem of, what constitutes a balanced federation? Is the current structure of 36 state and 774 local government areas the optimum structure of the Nigerian federation or do we need further restructuring. Should the number of units be pruned down or down or should they be revised upwards? There seem to be ardent supporters on both side of the divide.
- iv. The final anxiety that has to with intergovernmental relations has to do the actual behavior of political actors at all levels, and not with the legal attribution of powers and responsibility allotted to the various institutions. Federal government, state government and local government on the one hand, and the legislature, the executive and the judiciary. It is interesting the methodological difference in the focus on political behavior and the role of institutions led to the protracted conflict between the behaviouralists (Easton et al) and the traditionalists (Bull et al). While the two ideological orientations in political science might not be of much relevance in this context, the impact of the debate is that it is real human behavior that counts irrespective of the context and institutional matrix, although the context might frame the individual behavior to some extent. In another context, I have tried to explore this subject in the context of legislation/executive relations in Nigeria's fourth republic (Odock, 2012) what is clear is the tendency of actors strategies of deference or defiance in response to the unique context and combination of factors they face.

4. Rule of Law

According to the legal dictionary in the free Dictionary corm, "Rule of law could mean, according to law; rule under law; or rule according to a higher law". The dictionary under reference notes further that "the rule of law is an ambiguous term that can mean rule different things in different contents. In one context, the term mean rule according law. No individual can be ordered by the government to pay civil damages or suffer criminal punishment except in strict accordance with well established and clearly defined law and

procedures. In a second context, the term means rule under law. No branch of government is above the law, and no public official may act arbitrarily or unilaterally outside the law. In a third context, the term means rule according to a higher law. No written law may be enforced by the government unless it conforms to certain unwritten, universal principle of fairness, morality and justice.

The correctness of this definition and the dimension of the rule of law listed above are subject to disputation, especially as it relates to laws conforming to higher laws. There can be little dispute that the absence of respect for the rule of law in the first two contexts specified above could easily lead to bad government which is a negative of democracy.

In addition to outlining some basic principle of the rule of law Khagha (2011) has argued that good governance anchored on the rule of law requires the development of an active and virile civil society which can serve as a watch dog on the excess of government as well as perform other functions. On the other hand, Emme (2012) has documented the many instances where the rule of law was under Constance assault of both the military regimes prior to and the civilian regimes from 1999 to 2009. We can sum the challenges that confront Nigeria and other African state when it comes to dealing with respect for the twin concepts of constitutionalism and the rule of law by tuning to the late Kenyan Jurist Okoth Oggendo (1993) who wrote the master piece “Constitutions without constitutionalism: an African paradox; to illustrate how African state and their leaders dissipate enormous human and materials resource to write and enact constitution that they are determined not to honour.

It is interesting that Nigeria scores very highly in the league of those countries that have constitutions without or with very little constitutionalism. In fact, reading any Nigerian daily newspaper clearly shows the extent to which the rule of law has been bastardized in the country.

The foregoing provides us a basis for identifying some anxieties relating to the rule of law in Nigeria.

1. Can the ushering in of a new political dispensation and leadership in the country since May 29, 2015 make an effective end to abuse of rule of law and disregards of the constitution in the country? Only time can tell, but the auguries so far seem to be positive.
2. Since the separation of powers is fundamental to respect for the rule of law and constitutionalism, can the executive branch be reoriented to ensure that its total domination of the political space is moderated by respect for the other branches of government?
3. Since judiciary is the guarantor and administration of the rule of law, can all political institutions and authorities in the country imbibe the practice of obeying and respecting court orders?
4. Finally, can the practice of political impunity at all levels be reined in transformational leadership? Balogun 2011)

5. Conclusion

Our paper has focused on the anxieties of democracy and evolving a strategic framework for effective governance and sustainable development in Nigeria, with particular references to the legislative process, intergovernmental relations and rule of law. One clear conclusion that can be drawn is that the trio of legislative process, intergovernmental relations and rule of law are central elements of democratic government which is considered a basic pre-condition for sustainable development, which is conceived in terms of the current prudent management and exploitation and use of human and natural resources to meet the needs of the present generation, without jeopardizing the well-being of future generations.

This perspective agrees with the long term vision of the Nigerian nation as stated in the country's 20:2020 which declares boldly that:

“By 2020, Nigeria will have a large, strong, diversified, and sustainable competitive economy that effectively harnesses the talents and energies of the people and responsibly exploits its natural endowments to guarantee a high standard of living and quality of life to its citizens. (Nigeria vision 20:2020:8)”

While the lofty goals of the vision statement cannot be doubted, their realization has always been predicated on both the consolidation of the country's democracy and the practice of good governance; both of them strongly conditioned by an effective legislative process, a health system of intergovernmental relations and a strong adherence to the rule of law.

As shown above, Nigeria's experience in these three areas has revealed some anxieties that need to be addressed if the practice of democratic good government is to be guaranteed.

A point that needs to be emphasized at this point is the reality that the anxieties of democracy that were discussed in our paper could be assumed to have been generated by the specific paradigm of leadership and governance in Nigeria that lasted sixteen years from 1999-2015. Consequently, the emergence of a new political dispensation and leadership in the country in May rendered these anxieties superfluous, transformed them, or transcended them completely. However, the early preoccupations of the legislature soon after inauguration in June 2015 indicate that the legislative process needs to be under constant surveillance in order to ensure that “good governance and sustainable development” remain the preoccupation of the legislatures rather than the peculiar interest of the legislators. As for the practice of intergovernmental relations there is need for vigilance to ensure that the electoral majorities of parties at different levels do not translate into an inclusive authority model that renders good and accountable governance almost impossible to achieve.

Since the rule of law is revealed through the day to day functioning of governance, it is hoped that the new dispensation will curtail impunity, restore respect for the judiciary and court decisions and orders.

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