

AN APPRAISAL OF OBASANJO'S DEMOCRATIC LEADERSHIP IN NIGERIA FROM THE PRISM OF RULE OF LAW: 1999-2007

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Abstract

Rule of Law is the cardinal principle of democracy, and no democratic regime will be so-called in the absence of it. Therefore, it has become one of the very many gauges through which leadership is examined in any democratic regime. Nigeria as a polity has witnessed military dictatorship more than civil governance, and in that situation, the rulers have ruled with manifest disregard for the rule of law. With the wresting of power from the clinched fists of the military in 1999, democratic rule which had been longed by the people returned once again through multi party elections in which Olusegun Obasanjo won the presidency and was reelected for a second term in 2003, after the expiration of his first tenure. During his presidency, there were a lot of controversial fall outs in which the rule of law was disrespected to its fabrics. These situations as mind-boggling as they were, perhaps never perturbed the president, and left Nigerians in shock over the import of rule of law in a purported democracy. The paper intends to examine those developments, in which the rule of law was manifestly flouted by Obasanjo, and the implications such had on the practices, sustenance and deepening of democracy in Nigeria.

Key words: Obasanjo, Democratic leadership, Nigeria, Rule of Law

Introduction

Nigeria's current democratic dispensation came into being after sixteen years of uninterrupted military dictatorship. With the military mid-wifed civil governance in place in May 1999, Nigerians began to face the myriad challenges of transition. These challenges ranged from mental doubt as to whether the transition would last without the military devising spurious reasons to return back to power, as well as shrugging off from the peoples' psyche the ensconced images of brutality, torture and death inflicted by the last of the dictators-Sani Abacha. Also, the worry over the state of the economy, corruption (which was at its highest level), human rights and righting the wrongs committed by the military were among the mind-bugling issues facing the nation. The democratic transition no doubt was beset by a whole bunch of challenges, but like is often said, 'democracy is a process', therefore, taking a step, allows other things about it to fall into line. The horrors of military dictatorship particularly that of Sani Abacha is one that will not quickly fizzle out of the mind of the people of Nigeria. Here was a man who cultivated a high penchant for brutality, degradation and repression as hallmarks of his regime (Osuntokun: 2001, 90).

Nigeria witnessed the asphyxiation of all the essential institutions of democracy, in an apparent self-succession bid of Abacha. Opposition politicians and activists who did not flee, were confined inside jail and other detention facilities, while others (including Olusegun Obasanjo) languished in prison waiting for "Dr. death" on allegation of plotting to overthrow the Abacha government. His sudden death, freed Nigeria from an impending doom, and ushered in a new era of 'trial and error' democratisation. The conduct of the 1999 presidential elections saw the emergence of Olusegun Obasanjo as the president of the federal Republic of Nigeria, under the banner of the Peoples' Democratic Party. His emergence from prison to state house, stunned many, but it does

appear that fate had designed it in that way for him as a person, and for Nigeria as a country. To many Nigerians, Obasanjo's emergence as the president of Nigeria, was a 'conspiracy' of retired military oligarchs in Nigeria, particularly from the North, who saw him as 'a compromise' candidate to placate the frayed nerves of the 'south-west' over the June 12 1993 incident; and as a progeny of the same military tradition, the 'oligarchs' felt that they were more comfortable with him than any other candidate. Thus Obasanjo had to face a new tradition he never experimented in the past with—that is becoming a civilian president, operating with a constitution, having checks and balances hedged around him by way of the legislature, the judiciary and an open-eyed civil society; and above all to subject his personal idiosyncrasies to the rule of law.

Democracy as a concept began its journey from the Greek City-States, contending with man's innate appetite for despotism, till the modern times. It does appear that what we have today as democracy is rooted to the Anglo-Americans. However, as democracy evolved and spread worldwide and as the dominant system of political organisation in modern nation-states attempt to conceptualise and theorise it, it has become too amorphous with the result that it has become a heavily contested albeit overflogged concept. It does appear to mean different things to different people; like "People's Democracy", "Guided Democracy", and "People's Democratic Dictatorship" (Jega: 2007, 14). It is not within the province of this paper to discuss the various typologies of democracy, but rather to essentialise the fact that the purpose of a democracy is more useful to humanity than that of aristocracy (De Tocqueville: 1956, 101). Democratisation must therefore involve the following twelve things: multi-partyism under a democratic constitution having the force of a supreme overriding law, a complete change of guards and the exclusion of certain other categories of persons from participation in democratic politics and government, a genuine and meaningful popular participation in politics and government, a virile civil society, a democratic society, a free society, a just society, equal treatment of all citizens by the state, the rule of law, an ordered stable society, a society infused with the spirit of liberty, democracy and justice; and an independent, self-reliant, prosperous market economy (Nwabueze: 1993, 2-3). These constituents of democracy are by no means the end of the list; to this is also added the existence of political opposition by individuals and groups, by press and above etc. (Mayo: 1960-15-35).

In a democratic society, a major indicator for gauging the level of compliance to the dictates of democracy and respect for the *Grundnorm* is respect for rule of law. This is a litmus test for whoever that occupies the exulted position of the Commander –in-Chief, because unrestrained executive power intoxicates when not circumscribed. In a true democracy, the laws allow him the president to be strong, but circumstances keep him weak... (De Tocqueville: 1956, 81), one of such circumstance is that the president must at all times subscribe to the dictates of the constitution. The principle of rule of law is traceable to Aristotle, who opined that "the rule of law is preferable to that of any individual", and that "revolutions occur when there is lawlessness." The frontiers of the principle of rule of law were however furthered by Dicey in the 19th century, when he enunciated three basic features of that rule to include the absence of arbitrary powers by the leader, equality before the law—which implies that every man whatever be his rank is subject to the law; and that the general principle of the constitution, especially the liberties of the individual –personal liberty, freedom of speech etc. (Dicey: 1973). However, there are exceptions to the principles of the rule of law, when extraordinary emergency powers are conferred on the president by the constitution or the legislature to act in such circumstance. For instance Section 305 (3) of the 1999 Constitution of the

Federal Republic of Nigeria, (Nigerian 1999 Constitution), is one such situation. But in general, the president is a creature of the constitution and must therefore respect the rule of law.

What the paper will attempt to discuss are those circumstances in which president Olusegun Obasanjo, disrespected the rule of law during his term of office as a democratically elected president, and the implications such had on the practices, sustenance and deepening of democracy in Nigeria.

Obasanjo's presidency versus Rule of Law: Matters Arising

As Olusegun Obasanjo took the oath of office as Nigeria's president in May 1999, Nigerian's nurtured the hope that with the nascent civilian government assuming the reigns of power after a bloody military dictatorship, there was an imminent renaissance of a democratic culture, good governance etc. (Nwachukwu: 2003, 7). The people's expectations on Obasanjo, were legion; knowing the state of things in Nigeria, it was not out of place for the people to have hopes on the feasibility of change in the system-particularly when it was a democracy. Unfortunately, as the journey progressed, Nigerians began to face the grim realities of failed expectations and hopes. Virtually every sector of the Nigerian state was in ruins and needed attention, but alas! Nigeria seems to move on a slow wheel. In the first term of Obasanjo's presidency, precisely in November 1999, as a result of the killing of some police men by restive youths in Odi, a town in Bayelsa State, the president in a military fashion, ordered soldiers to attack the town. A matter that would have been carefully handled to ensure that the perpetrators of the violence were fished out and punished resulted in the complete destruction of the entire community by soldiers who, killed, maimed, raped and pillaged a defenceless civilian population. In that military operation, over one thousand persons were killed and all the buildings in the community razed to the ground with only 3 standing (Nwachukwu: 2003, 7). In a democracy, such an action is manifestly unlawful and a denigration of rule of law; but Obasanjo appeared to be less perturbed by the ruins left in the wake of that military campaign. Again, following the Jukun/Tiv crisis in Benue State in August 2001, and the killing of some soldiers by Tiv militia men, the president, in a manner consistent with complicity, ordered soldiers into Tiv communities without the knowledge of the Chief of Army Staff, and Tiv villagers were massacred and houses destroyed flat in a dastardly coordinated onslaught. At the height of the criticism from both Nigerians and outside human rights organizations, the president claimed that it was George Akume, the then governor of Benue State that called for military invasion of Zaki Biam, that "the situation was beyond him and that of the police" (Akpodovhan: 2011, 6). In a putative democracy where there is supposedly rule of law in operation, a president cannot recline to violence in addressing national issues and challenges. These two incidents happened less than one year after Olusegun Obasanjo assumed office as president of Nigeria, and put to test his democratic credentials. Under his government, the security agencies in the state, disrespected human rights and called to question the essence of rule of law. For example, the police from 1999-2003, recorded numerous extra-judicial killings in an apparent attempt to obey the shoot-at-sight order of the command in their war against criminals. Unlawful detention and torture as a medium of obtaining information from accused persons in detention became rife, (Akpodovhan: 2003, 11-120. In 2001 alone, over 1,000 youths were awaiting trial inmates in the prison formations across the country, (Defence of Human Right: 2001).

The attitude of president Obasanjo towards respect for rule of law was very unhealthy during the period under review. There are several incidents of the executive and some agencies of

government, manifestly disregarding court orders as well as judgments. A very pathetic case concerned the Electoral Act 2003. It was reasoned that the electoral working document (Electoral Act), which ushered in democracy in 1999, was replete with loop-holes and therefore needed review to accommodate the larger expectations and political aspirations of the larger political community in the country. Consequently, civil society groups in Nigeria engaged the federal government on the need to reform the Electoral Act and widen the political space. The president apparently miffed by the fact that the civil society groups were asking too much to the detriment of their constricted and prebendal interests, colluded with the principal officers of the National Assembly and inserted new clauses in the proposed amendment of the Electoral Act that was passed before that august body for consideration. This is a clear negation of democratic principle and rule of law, a matter that were it to be in a real democratic situation ought to orchestrate the impeachment of the president alongside those anti-democratic elements who manipulated their ways into the National Assembly. Unfortunately, this was treated with levity thereby emboldening the president to assail the principles of democracy and rule of law with impunity. Earlier in 2003, just a few months before the 2003 elections, the Independent National Electoral Commission (INEC), registered some twenty-seven additional political parties., (Nwachukwu: 2003, 10). This attitude obviously is a complete negation of rule of law, and an indictment of the leadership of the National Assembly, whose responsibility should be to protect the interest of the people of Nigeria, and not their pecuniary and narrow interests. Another hard-to-believe scenario was the struggle between INEC and Democratic Alternative, a registered civil society group. In 1999, had aspired to be registered by INEC as a political party to make for its participation in the forthcoming elections. But INEC flatly refused, even when the party had met all the basic requirements set out by INEC. The struggle that ensued between the DA and INEC, ended up in Supreme Court, which ruled in favour of the registration of the applicant. Yet INEC refused to immediately comply with the order of the apex court, but reluctantly registered the party after (Nwaogbe: 2003, 14-15). In a democratic environment, where there is respect for the rule of law, and the president conscious of the fact that the basis of his government was law, no agency under that government should stand in the way of the law. But since the president demure on questions of rule of law, the chances that he would condemn such acts emanating by any agency of the government that denigrates the rule of law is slim.

The other aspect of Obasanjo's obstinate disrespect for rule of law is ably demonstrated in his 'rape' of the constitution without qualms. In 2004 for example, in an apparent attempt to show a 'disobedient' boy how to behave when he is out of the master's favour, and perhaps discredit him, Obasanjo instigated an impeachment saga against governor Joshua Dariye of Plateau State which was of course viewed as an assault on the 1999 Constitution, as some members of the House of Assembly desperate in the impeachment process removed the governor, (Punch: 2006, 2). To ensure that the governor loses out in the impeachment battle, Obasanjo on May 20, 2004, suspended the Plateau State Governor, Joshua Dariye and the State House of Assembly by declaring a 'State of Emergency' on the state, and replaced them temporarily with an administrator in the person of Rtd, General Chris Ali. According to Prof. Ben Nwabueze, "This is the greatest and most brazen illegality committed by any government in Nigeria, colonial, military or civilian." He noted that emergency powers comprised two distinct powers, viz (i) power to declare a state of emergency; and (ii) powers to make laws and execute them with respect to matters within exclusive state competence in normal time, and to overstep, with some exceptions, the limitations on powers arising from the constitutional guarantee

of fundamental rights in Chapter IV of the Constitution. He queried that Section 305 of the Constitution Obasanjo relied on for his action in Plateau State, grants only the first power, and not the second; it only empowers the President to declare a state of emergency in situations there specified. It is not intended for the present purposes to go into the question whether or not the state of emergency in Plateau State was validly declared under section 305. In making his position, which is also the position of the law known to Obasanjo, the legal luminary contended that a state of emergency validly declared under section 305 does not by itself, bring into play the second power. It is a fundamental principle of Rule of Law that executive acts must be authorised by law, at any rate, insofar as they affect the rights and interests of an individual, and that the Executive is not the one to confer the necessary legal authorisation on itself. The principle is well established by many authorities he concluded.¹ Upon the wide-spread criticism this unconstitutional act of the president drew from the Nigeria populace, Obasanjo remained unmoved, and justified the illegality that was not supported by any principle in the constitution.

President Obasanjo seemed to be enjoying the constitutional breeches he was committing, and that explains why he dabbled from one of such abuse to another. Within the same time frame of 2003, the peace in Oyo State was ruffled. This time as a result of the meddlesomeness of a political interloper and 'godfather' of Oyo politics known as Alhaji Lamidi Adedibu. The governor of the state, Rasheed Ladoja fell out of favour with him over the latter's allegation that the governor was not making the monthly allowances he was supposed to be remitting to him, and that the governor's security vote was being used by the governor alone without also giving him part of it. The feud degenerated to the level of impeachment. Thus, the House of Assembly got divided over the propriety of impeaching the governor; some law makers backed the governor, while some joined forces with Adedibu. The total number of legislators in the Oyo House of Assembly was 32, and 14 were in support of Ladoja, while 18 were against him. So the 18 loyalists of he Adedibu suspended the 14 other legislators who were fingered to be in the train of the governor, and the federal police directed from 'Aso Rock', prevented the suspended 14 members from gaining access to the House, thereby paving way for the remaining members aligned with Adedibu to impeach the governor. The impeachment lacked the constitutionally required procedure and the president knew all these and threw his weight behind Adedibu, whom he revered as a "strong man" of Oyo politics. The governor so to say incurred the disfavour of the godfathers and the political big wigs, (Muyiwa: 2003, 23). The president could not call his men to order in Oyo, but rather hobnobbed with some one like Adedibu, and unfortunately lauding his criminality as a virtue.

In the same 2003, something very ignominious that had never happened in the history of political contestation in Nigeria happened. After the widely rigged 2003 elections were over and the winners sworn in, Anambra State provided a curious scenario which could be at best described as a treasonable felony. The governor of that state, Dr. Chris Ngige, of PDP the ruling part, fell out of favour with his 'godfather' one Mr. Chris Uba, a known political tug and friend of Mr. President. The reason behind his attack on the governor was also the same reason for Adedibu's attack and condemnation of Ladoja of Oyo-Chris Ngige was not submitting the monthly allocation of the state to him and had not allowed him Uba to rule Anambra state from 'Uga' his home village. Matters went out of hand between the governor and Uba that the latter arranged with some hoodlums and the Federal Police through the Deputy Inspector-General of Police commanding Zone 9, the Eastern Zonal Command at Umuahia and abducted the governor. It was a worst form of state-sponsored

criminality in a putative democracy. The crisis did not end there, the said political tug also committed arson, by sponsoring criminal gangs to attack and set on fire parts of the state house and other allied government buildings. Yet the president was watching him destroy a part of Nigeria without arresting him and putting him on trial. Having not been reprimanded, Chris Uba sponsored a Kangaroo impeachment of the governor, and thereafter, an election tribunal removed the governor from power. In the face of break down of law and order as well as manifest disrespect for the rule of law in Anambra state by a nit-wit turned PDP politician and stalwart, president Obasanjo condoned all and provided Mr. Chris Uba with heavily armed Mobile Police escort while withdrawing the security detail of the governor. Most people in the state knew that the struggle was going to take a criminal dimension and thus were not surprised that Ngige was eventually kidnapped, (Nwaeze: 2003, 38). This act of treason which was supposed to be treated with the desired punishment was casually discussed, and no charges were formally brought against Chris Uba by the federal government. The way the Anambra case was handled showed that president Obasanjo condoned evil and does not have respect for the constitution and rule of law. For him to have trivialized the matter the way he did, speaks volume of his mind set on rule of law. He told the world in late 2003 that Chris Uba and Governor Chris Ngige confessed before him that the elections in Anambra State in 2003 were rigged. He said this without a sting of conscience or moral qualm. Was this enough for him to be silent over such a scornful act? It was his connivance and supports that emboldened Chris Uba. The use of the federal police to perpetrate that act was also in issue. The Assistant Inspector-General of Police in charge of Zone 9 Umuahia, Mr. Raphael Ige, coordinated the assault. He said he was 'acting on orders from above', and later changed his statement and died suddenly after the change of statement. Every undemocratic medium was explored to remove Ngige from office, including the use of judges of the High Court. When the efforts failed to remove the governor from office, or make the state ungovernable so as to get a chance to declare a state of emergency, Obasanjo awarded oil block to Chris Uba, and Obasanjo's PDP sacked the governor from their party (PDP), and promoted Chris Uba to the PDP's trusteeship board, (Osahon: 2012). The promotion of a villain to the highest decision-making body of the PDP shows the regard the president had for rule of law during his regime.

Obasanjo's disrespect for the rule of law also continued during his second term in office. He appeared like a recidivist, who was incurable and immune to change. In 2006, there was a fall-out between him and the governor of Ekiti State Ayo Fayose who used to be the 'boy' of Mr. President. The governor was accused of 'misbehaviour' by the pro-presidency legislators and consequently the state was thrown into disorder. The opportunity sought by Obasanjo to remove the governor had come and he quickly stepped in and declared a state of emergency in Ekiti state. This cat saw the eventual removal of the governor. Kaita Lawal, reacting to the play out in Ekiti decried the crisis that has steeped the state into the debris of confusion. He condemned the power plays of the president and blamed him for the problem the state is facing. He further stated that the actions of the president breached civil rights of the masses, and called for a check mate on his excesses, (Femi: 2006, 4). In the same vein, the lawmakers of Ekiti state faulted the imposition of a state of emergency in the state; condemning the actions of the president that it ran fowl of rule of law, (Onwurah: 2006, 1). One disheartening thing about Obasanjo's invasion of Ekiti was the way he roped in the Chief Judge of that State Justice Kayode Bamisile, who the public also blamed for the poor handling of the impeachment process of Mr. Fayose and his deputy Mrs. Olujimi, (Oyedele: 2006, 11). Even the moves made by the governors and the leadership of the People's Democratic Party in the South West

to save Fayose could not halt his impeachment, (Oladipko: 2006, 22). Obasanjo's vain-glorious pursuit of power led him to use all manner of vindictiveness, thereby bringing the constitution he swore to protect into disrepute.

Obasanjo's dictatorial instincts manifested in virtually every thing he did. As an elected president, he saw powers inherent on that position as absolute powers, and never looked at the constitution as a guide in the exercise of it. It was also too unfortunate that the National Assembly showed its own weaknesses, thus paving the way for Obasanjo to usurp powers he never had by law. The worst disrespect a leader could show is to the constitution, and the reasoned judgments of the courts of the land. Lagos state created Local Governments in addition to the ones recognized by the constitution. The federal government of Obasanjo responded by withholding revenues accruing to the local governments in Lagos state. The matter went to court and it was ruled that Lagos state had the right to create new local governments, but that such local governments would be approved by the National Assembly. Thus with this ruling of the apex court, Lagos state was asked to revert back to the original numbers of local government pending any approval by the National Assembly. The court also held that the withholding of the state council funds was illegal and urged the federal government to release the withheld funds. Obasanjo in his characteristics, sought for the interpretation of a straight forward ruling of the Supreme Court, and refused to obey the order of the court. His disrespect for court decisions became so frustrating that lawyers in the country had to go on strike by boycotting court sessions for a couple of days in March 2006, to protest against Obasanjo's high-handedness. And in a speech on May 31, 2006, the retiring Chief Justice of the Federation, Justice Muhammed Uwais, described government's disregard of Court judgments as, "evidence of bad government" (Osahon: 2012). This was the height of executive irresponsibility and an indictment of Obasanjo as a leader.

The day of reckoning for Obasanjo was fast coming, and this manifested through the so-called Constitution Amendment championed by the president and his acolytes in the National Assembly. In February 2006, the deputy senate president Alhaji Ibrahim Mantu, led the National Assembly Joint Constitution Review Committee, and had scheduled to take the three term proposal around the country in the guise of public hearing. These agents of Obasanjo received huge sums of money from him, including the incorporation of top notches in some corporate organizations, as well as the Director of the Nigerian Stock Exchange and that of Nigerian Breweries Festus Odimegwu into the tenure elongation financing. Rather than make the public hearing open, it became narrow in its opening. The president swore to protect the constitution but with the 'third term agenda', as the only basis to amend the constitution, his oath of office thereby became questionable. Those who championed for tenure elongation made the public believe in their sterile arguments that the president had agenda for the country; it also looked as though he was the only knowledgeable person in Nigeria, to take Nigeria out of its quagmire, (Mohammed: 2006, 27-30). The rabid appetite for power to the detriment of the constitution by Obasanjo killed any chance of reasonably amending the constitution as anti-tenure movement developed across the country and in the National Assembly. The polity became so heated so much so that it polarized the National Assembly into two disparate camps-those for tenure elongation and anti tenure elongation. When the motion for Constitution amendment was introduced in the National Assembly, it was rejected in its entirety thereby killing the tenure elongation programme of Obasanjo. This ugly development portrayed the president as one that is obsessed with power and highly corrupt. He spent billions of tax-payers money to lobby the

members of the legislature as well as governors to endorse the third term agenda. This move contravened the rule of law, democratic tenets and the constitution.

There are too many instances in which Obasanjo debased the rule of law principle, and breached the constitution thereby ridiculing democracy in Nigeria, but what we have tried to do here is to sketch some of those glaring instances and indict him as a pseudo democrat. Even in his war against corruption, he adopted hit-and-run approach and even politicized it by being selective in prosecuting offenders. Every manner of breach took shape in the name of war against corruption, while his cronies who were heavily immersed in corruption were shielded from prosecution. As the president, conscious of the fact that Nigeria remained after every other person must have gone, and to that extent bigger than any single individual, every body should be given equal measure of treatment. But that was not done during his presidency, protected and preserved his hatchet men, like Ibrahim Mantu, Tony Aninih, Olabode George, Chris Uba etc. He did not respect the separation of power principle in a democracy, and therefore meddled in every conceivable part of the affairs of the nation including the local government. His authorization of the invasion of the sanctity of the chambers of the legislature during his struggle with Chuba Okadigbo the then Senate president shows how much he respects the rule of law. Even his struggle to remove the speaker of the House of Representatives Umar Na'Abba, using all manner of unhealthy methods, shows that the respect for the rule of law and constitution were both far from him. This is by no means an exhaustive discussion on this subject matter, but for the sake of brevity, we wish to rest our case here.

Conclusion

Rule of law is one of the most sacred principles of democracy, and no democracy will be so defined in the absence of the untrammelled respect for the rule of law. It enlivens and nourishes the polity, and in it, there is peace and prosperity. No wonder the philosophers of old, in theorising on the subject matter, defined it as the 'pillar of democracy' Unfortunately, Nigeria whose history with democratic governance, has been a troubling one, finally shrugged off the military from power in 1999, and got a president that ran into collision course with rule of law in almost all the years of his two term presidency. The experiences of that government did not encourage the development and deepening of democratic culture within the leadership as well as among the citizens. It did not conscientise the citizens on how best to sustain and deepen the gains of democratic governance. It was a period Nigerians would reflect on with sadness and a sigh of relief that it came and went. As a people with very horrible experience on governance from the time of independence, the return to civil rule in 1999 would have been an enabling environment to cultivate the culture for respect for the laws of the land and equality before the law. Perhaps on this, Nigerians would not say in the barest honesty that they learnt anything profitable apart from impunity. Elections were rigged and every manner of manipulation unhealthy to the development of constitutional culture ensconced itself in the place of the desired virtues of democracy and leadership. The exercise so far is revealing of that crude aspect of man in confrontation with unrestrained power.

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