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Democracy: A Comparative Study of Its Indices, Practice and Relevance to the Nigerian Federalism

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Abstract
Democracy is complimented the world over as the best form of government because it engenders or fosters participation in politics by the generality of the citizenry. In Nigeria, it has been advocated that the return to democratic rule and the abandonment of military dictatorship who ruled by decrees and force of arms would signal the terminal end of the political abnormalities and inconsistencies the country has suffered since independence. The year 2022 makes it a consistent run of twenty three (23) years after the last military Head of State sat bestride this nation. It is the position of this paper that what we have in Nigeria does not reflect either democracy or true federalism, whether it is viewed from the indices on the ground, the making of the Nigerian Constitution, or in its practice. We therefore hold that in the absence of true federalism, there cannot be an ideal democracy since "You cannot put something on nothing and expect it to stay there. It will collapse" (Mc Foy). We will begin by defining democracy, constitution, constitutionalism and some associated concepts and examine the process of making the 1999 Nigerian Constitution. We will then try to navigate its path by asking, "Is the 1999 Nigerian Constitution a democratic Constitution? We will then proceed to identify the basic criteria for democracy and constitution making, and collapse this on the Nigerian type of Federalism. We will finally settle for an examination of Nigerian Federalism and how is has bearing on the Federal Government and its federating units, the State Governments. We will then proceed to identify the indices of and examine the relevance of democracy to a democratic polity, and how this applies to the practice of democracy in Nigerian. It is by so doing that we will articulate the true essence of democratic government in Nigerians and how it has been corrupted in Nigeria and conclude with a recommendation on the way forward towards establishing an egalitarian state and within such peculiar African values as "live and let live."

Keywords: *democracy, democratic ideals, Federal, States, appraisal, constitution and constitutionalism, etc.*

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Introduction – Democracy, its Definition Democracy, its Appraisal

It was in 1863, at the Gettysburg Address, at a time when the American civil war was tearing the Union (which later to metamorphose into the United States of America) apart that Abraham Lincoln, in his avid appraisal on the American Declaration and the Constitution, the very documents which midwifed present day federalism in the United States of America and indeed popular government the world over as championed by Thomas Jefferson simply referred to it as the "government of the people, by the people, for the people" (Harris 52). Abraham Lincoln's definition of democracy has become the fundamental and classical and generally accepted definition of democracy the world over. One of the obvious facts that informed this definition by Abraham Lincoln was the assurance

he got that his government and indeed the United States' Constitution was set up in defence of human rights. He was also urged on by the fact that in addition, the American system also supported a large proportion of the people to have and develop active interest in their political affairs as it concerns the masses of the people.

In 1942, Appodorai wrote his book in which he articulated the meaning of democracy. For him he said democracy is a system of government under which the people exercise governing and administrative powers either directly or through representatives that are required to be elected periodically by the people. The will of the people in a democratic regime are supreme. A democratic government is one in which everyone has a right to contribute his opinion to the end result of all government process or policy, there is economic, political equality and fundamental basic rights and fraternal feeling among the constituents of the state. Appadorai goes on that in a democratic government, there is free franchise, general and continuous political participation by all, free discussion in the expression of Helvetius that "I detest your opinions, but I will contend to the death for your right to utter them." He also included free association and party formation, periodical elections, tolerance, compromise, subordination of the differences of the members or citizens to the general will, and adequate opportunity to everyone to develop his personality and access to knowledge, criticality and means of livelihood and education in the spirit of the constitution. The leaders in a democratic setting are expected to be honest, self-reliant, sense of responsibility and "re-adjustment of democratic institutions in accordance with changing conditions." (Appadorai 137 – 143).

The definition of democracy has had a winding path throughout history, being taken for different things by the different periods in the history of human development and politics. In Athens, democracy meant the system of governance whereby "the administration of the city was in the hands of many and not a few" (Sabine & Thorson 28), even though the state also practiced aristocracy, which revolved around old families who had good interest in landed property. In view of this, all citizens were required to have a share of governance at least once in every six months, or in the discussion of politics in the general assembly, or participate in public discussions of public matters. This might seem odd if taken in the light of today's society, but it was the means on enabling all its citizens to participate in the overseas commerce and military activities, while the aristocrats concern themselves with the heavily armed infantry and economic decisions. What was indeed practiced in Athens was "perverted form of government" because the aristocrats take the said practice to be "a device for exploiting the rich and outing money into the pockets of the poor" (Sabine & Thorson 37). This, we think was a subtle way to not the general take interest in his family matters and in the affairs of state.

To Plato, democracy is a state that is governed by and for the interest of the many, who do not have both birth and property, which is why he approved communism as the best form of government because of its abolition of the family and permanent monogamous sexual relationship and training of the children by the state; and prohibition of private property. He was minded to use democracy for the production of the greatest degree of unity in the state and private property if not contained, Plato seemed to suggest, would be a hindrance to that thus Plato sought to equalize wealth in order to remove the disturbing influence of private property in government and politics (Sabine & Thorson 66, 67). This is why Plato made a distinction between the six forms of government in his book, The *Statesman* – Monarchy, Aristocracy and Moderate democracy, which he sees as the constitutional states and the three perverted (despotic) States – tyranny, oligarchy and extreme democracy or mob rule. The next person of note who is fundamental to the way democracy was defined long before

Abraham Lincoln was Aristotle. He agreed with Plato that there are six forms of government, but that the two most fundamental forms, democracy and aristocracy are seemingly the same. The only point of divergence being the claims to power, that while the one is based upon the rights to property, the other is based on the welfare of the greater number of human beings. He argues that money and wealth has little or nothing to do with democratic participation and politics and that a "citizen is one who is eligible to take part in the assembly and to serve on juries", which is a replay of the Athenian idea of democracy. He concluded that a democratic government may choose to govern oligarchically, while an oligarchic government may govern democratically (Sabine & Thorson 112 – 115).

This we also find in later years during the modern period, the meaning of democracy got the leading social contract philosophers so pepped up. The most interesting from our point of view would be John Locke and Jean Jacques Rousseau. Facts available indicate that the modern idea of democracy actually grew from John Locke (Harris 19), who wrote that governments are built upon a social compact, or social contract, an implied agreement by all citizens with all citizens, each giving his/her consent to sacrifice a "portion of their liberties, rights or powers for the common good of all." Thus government is made possible only as a result of the voluntary agreement or consent of the people involved in the compact. This consent, Locke says or is not absolute, but it can be recalled or taken back by the citizens because it is subject to the inalienable rights of the individual citizens that make up the compact. Further reflections and examination of democracy in the United States Declaration of Independence shows that: "Governments are republican only in proportion as they embody the will of the people, and execute it" (Harris 622), hence no government is to be submitted to by any people at the expense of that which is the sole end of government – the common good and the safety of society. This forms the basis for the further arguments that were canvassed in pointing out that the common good and safety of a society can only be maintained and sustained by a democratic government. In the words of Harris, he restates John Locke when he surmised that: "Revolution might come…when the actions of elected representatives were so grossly unjust as to destroy the very trust between citizens and their government, which is the product of the social contract" (Harris 622). Thus for him, one basic necessity for democracy to succeed is for the people to actively participate in politics of their society, and for decisions in a political arena to be based on trust and the ideals of social contract.

In continuing his argument Dinneya contends that a precise definition of democracy is not really feasible noted that this is because of its dynamic nature. He thus opted to define democracy as a "political system which supplies regular constitutional opportunities for changing the governing officials…a social mechanism which permits the largest possible part of the population to influence major decision by choosing among contenders for political office" (Dinneya 26). This his view tappers further into the robust discourse that in a democratic state, it is the presence of meaningful and extensive competition among individuals and organized groups coupled with the level of civil and political liberties granted under a particular system that is a feature of the presence of a workable democracy. Sabine and Thorson reminded us of Aristotle's political theory as comparing the quality of the state laws with the quality of life guaranteed in that state. In their words, "For the law is relative to the constitution and consequently, a bad state will be likely to have bad laws. Legality itself then is only a relative guarantee of goodness, better than force or personal power, but quite possibly bad. A good state must be ruled according to law but this is not the same thing as saying that a state ruled according to law is good" (Sabine & Thorson 107).

In this direction, it is important to state that Harris agreed that what all societies need is only a degree of democracy to be able to offer the greatest good for the greatest number. It is in grounding this argument that he declared that "all political systems have (and should have) both democratic and oligarchic components and those instances of acceptable oligarchy for the sake of effective government abound in so called democracies" (Sabine & Thorson 107). The most vital things that matter, according to his analysis, is the fact that the system that is eventually chosen by the people, is able to move the political system towards or away from the ideals of democratization and the rule of law. Dinneya is not alone in viewing democracy as he eventually did as Harris went further to amplify the above when he poses and proffers an answer the question "is widespread political participation desirable?" (Harris 622 – 640), holding that political participation is basically fragmented among the competing groups in a society, and that it is proportional to their level of participation. According to him, the idealists are right when they said that "participation as having positive results for individuals and society that go beyond instrumental effects (Harris 634), because it is through our involvement that few are able to see that "democracy is a competitive political system in which competing leaders and organizations define the alternatives of public policy in such a way that the public can participate in decision making" (Harris 632). The primary ingredient is no longer because the people made the compact and are in the government, but that they are free to participate and demonstrate their interest in politics and issues around them freely.

Speaking further, Fred Harris concludes here that the "alienation of a large percentage of citizens from the political system is not the failure of the citizens, but a failure of the system. What is sometimes taken as a cause of the politics of power, the apolitical nature of ordinary citizens, turns out to be an effect of the politics of power" (Harris 638 – 639). We agree with him as well as with the idealists on this. In a democratic government, attention is focused on the evolution of rules or guidelines that determine how a government is to be organized and what powers it has and for instance the type of system it will operate – say a federal or unitary system of government.

At this point, we will hesitate to scrutinize the position adopted by one of the greatest contract thinkers in history, Jean Jacques Rousseau on democracy. Rousseau, we are told was one of the most dramatic of his days and was often described as one who differed from his contemporaries in everything but in his opinion. He defended the rights of the common man, and in his submission, Rousseau said, "It is the common people who compose the human race; what is not the people is hardly worth taking into account. Man is the same in all ranks; that being so, the ranks which are most numerous deserve most respect" (Sabine and Thorson 532). The greatest drawback of Rousseau's theory of government is his introduction of the "General Will", which is a collective good that that differs from the private interests of the citizens, which lives its own life and fulfills its own destiny and suffers its own fate (Sabine & Thorson 541).

And on the heels of the above, we are wont to state that the etymological definition of democracy derives from two root Greek words, "Demo" meaning people and "kratein" meaning rule. In its original meaning, democracy is all to do with the rule of the people, equality before the law and general participation in the affairs of the state. It is based on these ideals that we examine the definition given by Jibrin Ubale Yahaya, who in analyzing this noble concept agreed with Nzongona-Ntalaja that democracy is manifested differently the different epochs, social settings and conveys three basic ideas, as "moral imperative", as social process" and as a mode of governance or political practice (Yahaya 11)

These democratic views have over the years shifted, particularly between the realists and the idealists. The realists, we are made to know, tend to define democracy in terms of means, not ends, in terms of methods rather than ideals or goals, an institutional arrangement for arriving at political decisions. It is what informs the definition above as put forward by E. E Schattschneider who wrote in *The Semi sovereign People* that Democracy is a competitive political system in which competing leaders and organizations define the alternatives of public policy in such a way that the public can participate in the decision–making process (Harris 631). In this sense, democracy is visualized in terms of a government approved by the people, involvement of the largest number of people in the decision making process and one that stands or dissolves based on the consent of the citizens that the said government has power over. This is equally Lockean in orientation.

On the other hand, the idealists see democracy in terms of how much it concords with a stated principle or prescribed standards that are primarily desirable and acceptable. The guiding question every idealist seeks to pursue is – how can we sensibly measure the way things are, without starting with some notion about how they should be (Harris 632). They are preoccupied with how democracy would satisfy the set of idealists principles or criteria drawn up, and hence they argue that the ideals of democracy should be retained and that all the achievements made by and in democracy should be appraised against the sound principles of an ideal state even if it could not be attainable in pure and unblemished form. For the idealist, democracy should engender the values of participation because participation has positive results for individuals as well as society and it also transcends mere instrumental effects. They also contend that written constitutional or legal charters have no real binding force, except they conform with and agree with the expression of a constitution that is written in the citizens' minds. They conclude that any idea of democracy that exists "Without this moral support, the very strength of a state becomes its inherent danger" (Harris 633).

What the idealists look up to is that the views and aspirations of the people that make up the state should be succinctly reduced into a document called the "constitution." In addition, they contend that the constitution should state the type of government, the types and forms of the government, the powers and relationships with and between the states and the citizens; that is between the governing and the governed. This invariably translates into constitutionalism. According to Larry Cata Backer, (Cassirer 76) constitutions are legitimately grounded either in domestic law and the unique will of a territorially defined "demos", or are contrasted with "conformity with a system of universal norms grounded in an elaboration of the mores of the community of nations" Backer 672). Backer further states that it is the constitution that allots the share of work to each and every part of the organism of the state, and by doing so it maintains a proper connection between the different organs and individuals in the state Backer 673). It is the constitution therefore that stipulates and assigns what the sovereign is to do, and what functions and responsibilities it will shoulder. This is why the constitution is what devolves and actuates to lawfulness and legitimacy, so that being prevented from performing any function that is not contained in the constitution assists in helping to abolish tyranny of the individuals. The basic understanding and inference that is rightly deduced from a constitution is that it is essentially a conceptual expression of a higher law grounded in the power of uniquely constituted and inward-looking political communities.

One of the major arguments by Africans against constitution making and constitutionalism had always been that with our constitutions have remained a merely theoretical abstract or metaphysical expression of a higher law, which are more or less a typical reflection of the institutions and ideas moulded by Europeans for their European cultural context. Which is why constitutions end up being imposed on a people whereas the said "constitution" does not reflect the will and aspirations of the

people it is supposed to regulate or guide and which is simply tantamount to reenacting neo-colonialism or imperialism. This is drawn from the pervading understanding that the constitution made after the style of imperialist West establishes its own legacy "through a colonial legacy and not through African ethos and values" (Nyadzayo 12), which is why the Japanese Constitution is touted to being a good model of. It has been validly submitted that for anyone to look for the essence a constitution that is an embodiment of the aspirations of its citizens, that it cannot be better expressed than in the constitution of Japan. The Japanese Constitution expressly declares that it underscores not just government, but the peoples' "fiduciary obligation to ancestors for the protection of subjects (Backer 674). All constitutions are grounded in or built upon legitimacy because without legitimacy, it is not a constitution at all. Put succinctly, "legitimacy is a function of values, which in turn, serves as the foundation of constitutionalism" (Backer 676); but which is lacking because the best constitution is one that reflects and upholds the specific culture, values and aspirations of the particular society it seeks to serve. The constitution therefore is the instrument of state that lays bare the minimal requirements for a pluralist and egalitarian state and expects that once adopted, it will give rise to an upholding of the rights of the citizens in the state. However, where the constitution failed or ignored this vital link, would it remain a constitution for the people, or a Trojan horse of Europeans domination and oppression? This is why the constitution is higher, why if there is a conflict between any law made by the Legislature and the Constitutional provision would apply and why it was declared that, "If then the courts were to regard the Constitution and the Constitution were superior to any ordinary Act of the Legislature, the Constitution, and not ordinary Act must govern the case to which they apply" (Nyeenenwa 2019:86).

Any good people oriented constitution would obligatorily pass through the following stages of constitution making (Akande ii – iii).

a) Setting up of a constitution drafting committee to which the people freely elect representatives on equal basis for all the interest groups in the country.

b) A constituent assembly is then inaugurated to organize the debates on and evaluate the drafted document from the Constitution Drafting Committee.

c) Memorandum and inputs are sought or requested from the general populace on the draft document, with emphasis on the areas that need modification, alteration or to point out perceived omissions which involves public participation. This is followed by a referendum on the Constitution.

d) Government makes its pronouncements on the draft constitution which takes the form of a Government White Paper, after which it is signed into law.

The above requirements are mandatory requirement whose presence in a constitution making process confers legitimacy on any constitution. It is having met this stipulation (a) – (d) above that singularly and primarily justifies the opening preamble "We the people of Nigeria, having resolved…do hereby make, enact and give unto ourselves the following constitution" (1999 Constitution). The above reproduction of the preamble to the Nigerian Constitution, 1999 apart from defining the bases of legitimacy of a constitution, also serves to reinforce the trust and confidence of the state that results from that instrument, and most importantly, it shows beyond words of mouth that the state, or the body politic has no existence, authority or justification beyond the collective hopes and desires of the citizens of the state or that society. Indeed, the citizens, who turn out to be the participants in the politics and governance of the political entity owe no duty or allegiance to the state as a separate entity, but does not equally owe any allegiance any more to society as the aggregate of its individuals human members of those who agreed, came together and resolved (Backer 673 – 674).

The constitution as explained above is what is taken as the Grundnorm, which is the chief reference point and the sole decider in times of conflict in the polity. It is in fulfilment of the above stipulation that the Nigerian Constitution states that "If any other law is inconsistent with the provision of this constitution this constitution shall prevail, and that other law shall to the extent of the inconsistency be void (Section 1 (1) Constitution).

According Oluyede 1, the constitution is supreme, its provisions are the fundamental law absolute and transcendental and that cannot be confined for causes or persons within any bounds (Backer 675 – 676). Be that as it were, there have been several disagreements over this statement, with some claiming that the law is not *stricto senso* what the constitution says, but what the courts say it is and no more (Harris 59). This contest has been that there is no way that the constitution can pronounce on every subject matter within the compact, and also what the constitution provides is supposed to be interpreted upon and hence put into effect by the pronouncement of the Courts of the land. It takes the pronouncement of the courts to give direction and meaning to the intendment of the framers of the constitution so that it becomes what it ought to be and no other.

A typical example of this scenario is the interpretation of Section 20, of Chapter Two of the Constitution of the Federal republic of Nigeria, 1999 which states in part that states shall safe-guard and protect the environment, air, water and land and the natural resources of the state. The initial reaction and layman understanding of this section was that by virtue of Item 60(a) of the Exclusive Legislative List under the Second Schedule to the 1999 Constitution that every responsibility towards the environment shall vest in the Federal Government and only the National Assembly shall legislate on it. But that interpretation changed when the Supreme Court gave its decision in three matters to wit: AG LAGOS STATE V. AG FEDERATION & 35 ORS (2003) 12 NWLR (Pt. 833) 1, AG FEDERATION V. AG LAGOS STATE (2013) 16 NWLR (PT. 138) 207-416 and A.-G. ONDO STATE v. A.G. FEDERATION (2002) 9 NWLR [Pt. 772] 222. (Nyeenenwa 2019: 89, 112 – 114, 121, 249). By the combined effect of the three judgments cited above, the word "state" in the constitution was interpreted to refer to the three tiers of government, i.e., the Federal, State and Local governments. For the time being, this is the law because this is the prevailing decision of the apex court of Nigeria. However, this does not deviate from the express provisions of the law, what the court does is basically the most productive and liberal interpretation of the constitutional provisions and not to make law by its pronouncements (1999 Constitution).

Is the Nigerian Constitution a Democratic Constitution

This is the question that constantly gnaws at the side of our medulla oblongata without ending. It is from all indications a not so easy nut to crack, so we intend to rely on and use laid down rules to be able to hazard a valid explanation or proffer a plausible explanation based on our understanding of this enquiry. The constitution of the Federal Republic of Nigeria is referred to and generally called "the Constitution of the Federal Republic of Nigeria, 1999 (as amended)" (Section 1 & 319 Constitution), but this expression as a nomenclature for the Nigerian constitution lacks merit in all dimension as our constitution could not be said to be a true and authentic constitution by a wide margin when placed pari-pasu with how it was made and the other numerous indices at our disposal. As a major drawback, we identify and isolate the following irreconcilable flaws in the making of our 1999 constitution.

a. Constitution Drafting Committee: In events leading up to the drafting of the 1999 constitution, the military government of General Abdulsalami Abubakar did not set up a constitution drafting committee to see to the formal drafting of the constitution. No independent body was carved out as stipulated by convention and practice the world over. This implies that the 1999 constitution

has no relevance nor bearing to the aspirations and yearnings of the people of Nigeria as it did not in any way involve all the over two hundred and Fifty tribes in the country. So who drafted the 1999 Nigerian Constitution? If Nigerians did not or were deprived of making inputs and defending the inputs submitted, either it would be accepted or rejected is a different ball game all together, it ordinarily follows that the contents of the constitution were merely forced down the throat of Nigerians (Akande vi).

b. The Military Government led by General Abdulsalami did not organise a constituent assembly elected by the people to represent the various interest groups to aggregate the views thus expressed in the document (constitution), to review same and to decide on the plausible submissions suitable for a multi-ethnic assemblage of peoples and nations country like ours. This was necessary because in so constituting this assembly, some issues which took a prime like over-emphasizing religion, and in particular, giving Islam and Sharia a prime of place in the constitution over and above all other religions would have been moderated, modifies or out-rightly expunged or modified. In addition, there were many other issues in the 1999 Constitution that were not well articulated such as the right of the Vice President and deputy Governor to act and take over the reins of power in the absence of the President under all such situations. Some other which got a prime of place would have been moved to the background while some that were sent sprawling at the background, such as the issues of birth, tribe and self-determination and ownership of the mineral resources underneath the Niger-Delta would have been made prominent. This robbed the constitution making process of the beauty of a versatile Constituent Assembly, and this invariably caused the 1999 constitution to suffer from some gross illegality. It could be recalled that the said flaws had been responsible for the repeated moves to amend the 1999 Constitution and yet, it has not been deemed right for a multi-ethnic nation like Nigeria. The general acceptability it is having presently does not evince the fact that it is void, and being void ab initio, it is a nullity and nothing can redeem that but to re-enact these steps listed above in order to recover its validity and legacy through core African values. The frustration the people suffered in the hands of military dictator compelled the people to accept whatever was offered them including a dance with Lucifer. The 1999 Constitution did not make up for a complete Nigerian community, that is it didn't converge the past, present and future essence of law as a lived experience

c. The 1999 constitution was never subjected to public scrutiny through the usual referendum or other such public modes of assessment or examination of the draft constitution. (Nyadzayo 12). The non-reliance on this requirement for a valid constitution meant that the exclusion or omission of people oriented or people – based provisions in the constitution would inevitably result and this is a flaw that cannot be overlooked as it could spell doom and not necessarily a failure of the end-product, the 1999 constitution. What the then Head of State, General Abdulsalami Abubakar set up was what he christened, Constitution Debate and Coordinating Committee (CDCC) with the mandate to "pilot the debate, coordinate and collate views and recommendations canvassed by individuals and groups and submit report not later than December, 1998." But the report of the CDCC Chairman, Rt. Justice Niki Tobi that "it was clear that Nigerians basically opt for the 1979 Constitution with relevant amendments" was jettisoned and abandoned.

d. The constitution was merely scripted, arranged and passed by the Honourable Attorney General and Minister of Justice, an appointee of the Military administration, and imposed on Nigerians hence the constitution crafted by him carries with it the prejudices, idiosyncrasies, predisposition, the bias, views and aspiration of a single individual, out of a nation of over one hundred and fifty million people. This goes to prove that there was no genuine government effort guided towards the fulfillment, actuation or articulation of the needs and aspirations of the people the constitution was supposed to be made for, to protect and for their use and application. In the words of Chief Bisi Akande, former member of the 1977 Constituent Assembly, former National

Chairman of the All Progressives Party (APC); and former Governor of Osun State, "the 1999 Constitution is Nigeria's greatest misadventure since Lord Lugard's amalgamation of 1914. The Constitution breeds and protects corrupt practices and criminal impunities in governance. All the angels coming from heavens cannot make that constitution work for the progress of Nigeria. It should be scrapped as a bad relic of military mentality. . . Otherwise, the 1999 Constitution would continue to dwarf Nigeria's economy and stifle the country's social structure pending a disastrous and catastrophic bankruptcy." This speaks volume, from a man celebrated for his incorruptibility, his versatility and forthrightness. Interestingly, a high ranking member of the ruling All Progressive People's Congress Party (APC).

e. The drafted Constitution intended for "We the people of Nigeria" after it had been debated and collated by the Constitution Debate and Coordinating Committee, its passage was handed over to the Provisional Ruling Council (PRC) for final vetting and approval. There was no referendum conducted to feel the pulse of the peoples and groups in Nigeria that the said constitution was to guide and preserve. This left a wide gulf between the ethical, social and cultural context of the people's dignity of the over two hundred and fifty tribes that populate the country. Then finally, the 1999 Constitution was promulgated through a decree by the Provisional Ruling Council (PRC), which violates a fundamental principle in constitutionalism. Thus, instead of its enactment by the people through their elected representatives, the Constitution of the Federal Republic of Nigeria, 1999 was promulgated through a Military Decree, by an illegal and spent military regime made up of a bunch of military brass, who were do not have the mandate of the people to represent them and who thence did not consider that it was needful and necessary to make a provision for its "acceptance", or possibly its rejection through the resolution of the National Assembly by a referendum (Backer 622), (Appadorai 376 – 379).

f. The 1999 constitution of the Federal Republic of Nigeria was therefore set out as a schedule to the Decree made by the military in the dying days of military rule on the 5th day of May, 1999, few days before the military government of general Abdulsalami Abubakar terminated. As a schedule, it continues to raise so many questions as to when we are expected to have the substantive law which would be the people's constitution. Thus it is wrong and fraudulent to impose a constitution- the Grundnorm of a country on a people without their inputs and contribution. This is at the centre of the gross anomaly and flaw that attack the 1999 Constitution. How will such a binding document, a binding document of such a nature come into existence as a mere schedule or annexure to a Military Decree as stated in Section 1 (2) and (2) of the Decree No. 24 of 1999 to the effect that "The Constitution set out in the Schedule to this Decree shall come into force on the 29th May, 1999", and "This decree shall be cited as the Constitution of the Federal republic of Nigeria (Promulgation) Decree 1999. This prompts the question, which of the two will be held to be Supreme, the 1999 Constitution (as an annexure or schedule), or the enabling Decree No. 24 of 1999? It is an anomaly.

The above stated deficiencies extremely taint and challenge the authenticity of the 1999 Constitution as a true democratic constitution. In addition, it has been observed that most of its provisions are basically antithetical to what is vital to make a constitution valid to an African nation. Among the notable and obvious infractions are the followings:

i) No section of the constitution outlaw military coup d'états and forceful take-over of government by the Military which would have been achieved by tagging all coupists as dissidents and national criminals that would be prosecuted by the state. That they have successfully administered the country as military dictators, and liable to be condemned as common criminals. This is because it was the Military that midwifed the establishment of the 1999 constitution. Any such provision would have looked like a kingdom risen against itself.

ii) The 1999 Constitution under scrutiny did not give effect to the doctrine of separation of powers as it failed to address in clear terms or to in the alternative, because it failed to declare or direct the independence of the judiciary and the legislative arms of government as distinct from the executive arm of government. The eventual dependence of the other two on the executive arm ensures continued manipulation of the other two arms, subtle control and imposition of the will of the executive on these other arms.

iii) The constitution did not criminalize attempts by the political players to manipulate or compel their acceptability at the polls by the public. This has led to an upsurge in electoral violence, electoral crimes and manipulations and rigging and imposition of candidates. What would have made all the difference would have been immediate and continuous trial and conviction and subsequent ban or bar of all and any convicted politician followed by any other adequate and sufficient sanction to serve as deterrence to others which is the main thing to do to sanitize our electoral process and lead to responsive government and responsibly elected representatives. The essence of this is captured in the words of Prempeh 469, 481, who stated that constitutionalism in Africa in the early decades following the end of colonialism face a “massive deficit of legitimacy” and that most post-colonial rulers chose to create other sources of legitimacy which depended upon “supra-constitutional and supra-democratic welfarist projects tied to the pressing material concerns of the people” (Prempeh 469, 481). The 1999 Constitution did not promote the understanding that it will be exercised according to commonly accepted principles, that the persons on whom power is conferred are elected because it is thought that they are most likely to do what is right not in order that whatever they do should be right (Hayek 181).

iv) The idea of federalism was not equally given the needed effect in the 1999 Constitution as it did not go beyond the mere ceremonial name – calling of that concept that Nigeria shall be a Federal State. This has left many riddles and deep gorges unfilled and many other grey areas untouched. Be that as it may, with the exit of unitarist military regimes, the supreme court has risen to the challenge and handed down many seasoned and reasoned verdicts on what federalism is or stands for, and how it should be referenced or practiced in this country. Under the present Federalist arrangement, the interest of the minority ethnic groups are mortgaged and sacrificed on the altar of majority rule by the major ethnic groups of Hausa/Fulani, Yoruba & Igbos. This has occasioned violent resistance and opposition to the centralist nature of the Federal Government. The recent Ogoni agitation which led to the murder of Kenule Beeson Saro-Wiwa and the over thirteen prominent Ogoni leaders, has increased and led to an upsurge in militancy and militant demands for resource control, self-determination and economic sabotage in the form of oil bunkering, and “kpo-fire.” Although the government of Alhaji Shehu Musa Yar’Adua granted some Niger delta Militants amnesty, but it stops short of answering for the marginalization and the pervasive destruction of the environment of the Niger Delta oil communities. It regrettably shows how far the Nigerian Federation has retrogressed and failed to serve its purposes, and how much of the minority question that has been bastardized, evaded, avoided or ignored. It shows, that our jinxed and perverted federalism has adversely impacted on our national psyche.

v) The revenue sharing formula of 13% derivation is a far cry from being described as based on the principles of justice and equity because those who own the wealth are made slaves in their land and target of attack and repression.

vi) The constitution failed to address the issue of tribalism and nepotism; vices which are nearing being glorified and revered, one vice that has further segmented this nation and drawn us back scores at years. Although the 1999 Constitution provided for human rights in Chapter Four, but it has been argued that its provision in the Constitution is a mere academic exercise because the foundation on which human rights can flourish, which is the rule of law has been beclouded with the excessive prominence assigned and granted to the executive. The terrible end of this

miscalculation is that the Nigerian federalism is a stinking embarrassment, a charade and a theoretical skyscraper that is very certain to collapse with a huge clatter. In the words of Mare E. Brandon quoted by Backer, constitutionalism is a political theory concerned with the architectural structure and basic values of a society and of government. It aims to make the world comprehensively and to some degree, controllable. Historically, Nigerian politician remain preoccupied with the problem of power, particularly the exercise of power by those who rule, and is less concerned with whether that power is arbitrary and what to do when I is so exercised arbitrarily (Baker 681). The 1999 constitution failed to address what and how to decipher and place arbitrary power, to avoid tyranny resulting from arbitrary power and how to subject the government and compel government to uphold the rule of law.

vii) The 1999 Constitution over centralizes power in the hands of the Federal Government as against the powers it devolves to the federating units, States and Local Governments, thus foisting the dependence and survival of federating units on the central Federal Government. This prompt the question, whether Nigeria is a unitary or federal state? Sympathies have been that the Nigerian state has had to contend with more than two thirds of its existence between 1960 and 1999 on military governments which in the main were primarily unitary and centrist formations, but concluding that this is the bane of our centrist outlook is self-defeatist and fallacious. If this were so, then what is the place and function of the Constitution? Why do we have to go through all the hassles and troubles to enact for ourselves a Federal Constitution? Was the Constitution which was mid-wived by the military, or better described as forced on Nigerians not remedied this perceived anomaly while it was been enacted? Why was the 1999 Constitution not a reflection of the will and aspirations of the citizenry to engendering over dependence on the central government is to validate the statement credited to Chief Bisi Akande that "the 1999 Constitution is Nigeria's greatest misadventure since Lord Lugard's amalgamation of 1914." To compound this, the exclusive legislative list of the constitution and most laws enacted under these sections of the Constitution seriously contradict the Federalist structure of our country as they show a disgusting foray into the residual list under the 2nd Schedule to the 1999 Constitution. This was reechoed by Nyeenenwa when he said, "The National Assembly cannot in exercise of its powers to enact some specific laws take liberty to confer authority on the Federal Government or its agencies" (Nyeenenwa 2019: 121). This is a misnomer that the 1999 constitution has sustained and continues to foist on the federating units courtesy of the 19999 Constitution to this day.

From the above enumerated facts, it is difficult to sway even a thorough bred optimist from holding the contrary opinion that the 1999 constitution of the Federal Republic of Nigeria is not a true and authentic democratic constitution. It is safe to hold that it is merely a document foisted through criminal fraud on Nigerians by a Military Fiat as "our constitution", made by "we the people of Nigeria" (1999 Constitution). The 1999 Federal Constitution of Nigeria ought to be, borrowing the words of Chief Bisi Akande, "It should be scrapped as a bad relic of military mentality. . . Otherwise, the 1999 Constitution would continue to dwarf Nigeria's economy and stifle the country's social structure pending a disastrous and catastrophic bankruptcy." It should consigned to the scrap heap of history by ensuring that it abrogated and repealed, and the process for a truly democratic and authentic Nigerian constitution be initiated and commenced through a sovereign National Conference instead of a series of constitution amending that seems like we've counted six but we have just begun.

Nigerian Federalism and the Relationship between the Federal and States

To assess Nigerian Federalism and the relationship among the various levels of governance or authority, let us first of all look of the feature of federalism which set of apart from a unitary government. In a federal state, there is usually in operation two sets of government, one termed the central or federal government, and the other the provincial or unit government which in our case are those featuring the states as federating units. The association or coming together of these two sets is what is termed a federal state. Each set of government – the federal or the state is independent of the other, has its own area of jurisdiction so that one cannot interfere or intrude without causing a constitutional violation of grave proportions. In a federal system, the central and the unit are constitutionally equal in status and position and none is superior and the other.

In a federalist government, the constitution essentially distributes governmental authority and powers between the central (Federal Government) and the unit (State Governments). The details of the powers and authority vary from one country to the other; but matters that are reserved for the central government also termed Exclusive Legislative List basically incorporates matters which are of common interest to all the units and require uniform regulation such as foreign affairs, defence, currency, coinage, etc. Those that are left to the State Governments, otherwise called Residual Legislative List are those that would promote the interest of the units such as agriculture, commerce, public health, etc.; while some other ones are shared between the Federal and the Units called Concurrent Legislative List, include such issues as environment, power, taxation, tertiary education, etc. The federated state reinforces the doctrine of the supremacy of the constitution by having to derive their powers from the Constitution, neither the central or unit government exercises any power outside that which is delegated or assigned to it under the constitution to that the state cannot exercise or make laws not given it by the constitution to make, and cannot also exercise such power outside of the limits of such authority as conferred on the federal or state by the constitution to whom both are subordinate. This is to state that "A body that claims to legislate in addition to the what has been enacted must show that it has derived the legislative authority to do so from the constitution" (Nyeenenwa 2019: 106).

In the federal system of government as practiced in the United States and Switzerland and Canada, the political principles emphasize dispersed power as a means of safeguarding individual and local liberties, which shows in power diffusion and non-centralization of power. The relationship is captured in a written constitution, which spells out the mode of their compact and balance among the constituent polities. It also features territorial neutrality which allows for representation of new interests proportional to the strength of the person or group. It also shows accommodation of differences political integration and preservation of democratic government and non-centralised administration of justice. It also unflinchingly upholds the rule of law by all, for all and at all times. There is a formidable division of powers and balance of power between the several branches of government, the judiciary, legislature and executive. In fact it is worthy of note that in United states, the State Governments as well as the Federal Government each has a Supreme Court, Court of Appeal, two legislative houses, Senate and House of Representatives. The Federal Supreme Court interprets the constitution, clears disputes between the center and the states; or provinces and provinces and between the different organs of government, and thus puts them in check within their constitutional limits. The relationship between the central or federal government and the states or federating units is like a contract, hence the constitution is unusually written, made rigid so that any amendment would be long and clumsy and cannot be amended arbitrarily. In addition, the citizens under a federal constitution/state display what could be simply termed "double citizenship and

allegiance", as any citizen simultaneously belongs to two entities – the federating unit (states) and the central or federal unit. The people's loyalty in a true federalism is said to be normally divided among the states and the federal subsets within the federalist arrangement in the sense that the same individual citizen is both a citizen of a state, which in the United States of America is simply termed state of residence, and as well as citizens of the federal or central government. The central or federal legislature under federal system is generally bicameral which is one sure way to amply demonstrate that the lower house protects or guards the natural idea of and represents the nation as a whole, while the upper house is representative of and enshrines the federal idea and in their representation represent their people with that underlying philosophy at the back of their mind or as such. (Encyclopaedia Britannica).

Nigerian Federalism-Comparison and Contrast

In Nigeria today, it has been disputed that because of the long period of Military dictatorship, the government at the centre has become too powerful and which has made the National Assembly prone to making law for almost all areas and issues without constitutional restraint. It is obviously a violation of the restriction placed on the Federal law making process to be restricted to the exclusive legislative list. The concept "Federal might" has come to be associated with an "awesome presence" (AG Lagos vs AG Federation and AG 35 States) m of the Federal Government which had become too powerful and tending to loosening the constitutional guard and inhibitions, including the powers of other arms of government to undertake checks or balance of power. Within this context of "awesome presence" the underlying definition of federalism as a system of government in which sovereignty is constitutionally divided between a central governing authority and constituent units – like states and provinces seem lost or being deliberately violated by the centre. This has led to a myriad of law suits at the Supreme Court for interpretation. Some of the cases are AG LAGOS STATE V. AG FEDERAL & 35 ORS (2003) 12 NWLR (Pt 833) 1, FEDERATION v. AG LAGOS STATE (2013) 16 NWLR (Pt. 138 207-416) at 249 and A.G ONDO STATE V. A.G FEDERATION AND 35 ORS (2002) 9 NWLR 222 – 474. (Nyeenenwa 2019: 89, 112 – 114, 121, 249).

The import of these cases is that the Federal Government is not so powerful that it should adorn the toga of an "awesome presence" which is why the federating units are enabled by the Constitution to check and limit the powers of the Federal Government, especially through court interpretations, and at the same time, have specific powers to tame and balance each other. This powers have been used by the Federating units time and time again, even though the Federal Government has had to disobey the judgments and decisions of the Supreme Court on this in some instances

In a Federal set up, there is a two government pattern, with well assigned powers and functions. The central government and the government of the federating units act within a well-defined sphere, coordinate within a co-ordinate sphere and at the same time act independently. In Nigeria, this has flown in the face of reason as there is not merely a deliberately overlapping of functions, but there is a serious duplication of functions which often goes under the title of "covering the field". This often leads to friction. The sphere of operation of each sphere ought to be streamlined, re-engineered and re-organised to fit into our system of a tripartite government so as to reduce such frictions in our operation of federalism and government.

There is an urgent need to halt the trend where the Federal Government stampedes on all the Federating Units. Democratic governance has come to stay in Nigeria since 1999, so our democracy should be made to stand erect on the tenets of federalism, to abandon the most minimal traits of

unitary government running the State apparatus as one single, central entity. The Military example where the same body performs the duties of the legislature, executive and judiciary must collapse.

Other seeming offensive provisions or practices in our federalism that need a serious re-visitation and review concerns unequal representation in House of Representatives, unequal creation of states and Local governments in the North and in the South. A case in point is that of Lagos State. Before Abacha divided Kano State into three of (two and a half states), Kano had a higher population than Lagos State by a few thousands. However, after the state creation which saw Kano State divided, how come Kano State should have more population than Lagos State? In addition, the revenue allocation formula needs serious revision to allow more autonomy to the states, control of natural resources as the states control land, creation of local governments and not the present regime where the federal government uses such federal powers at its disposal to excise, favour or oppress certain groups in the nation. In the area of state policing, it has been argued that states need their police force, but I strongly oppose that because in the United States where we borrow our form of federalism from, security is a federal matter under the exclusive list. The intentions of the framers of our constitution placed this also under the exclusive list and I am in agreement.

Conclusion

To remedy this abnormality in our democratic experiment, which has infested our system like a deadly virus; and to cure ourselves of the canker worm of corruption, squandermania and social vices that a grossly faulty federalism has birthed and midwifed, we need to consider a holistic resolution and remediation of the problem. The bane of Nigeria's dismal outing as outlined above finds root in her selective, truncated and tribal practice of politics, democracy and democratic ideals. Nigeria failed to adopt the African value of communalism when she severed her links with Great Britain in 1960, and shunned the ideals of African politics which is summed up in the statement, "I am because you are; and because you are, therefore I am" (Olufunso & Omolola 42). Hanging onto the beguiled and noxious tasting and smelling seeds of ethnicity and tribalism sowed by the colonial masters, the dividends continued to affect what we did and altered the course of our history to this day. Having known that the colonizers did "regard certain African language groups as superior or inferior to others depending on the similarity of their solid political organization to that of the colonizers." (Nnoli 2), we were expected to tow a different course and abandon the perverted logic that considered certain tribes "kings and king makers" and others perpetual servants and slaves. The result is that today, Nigeria leads the world on the Failed States Index, after a brief stint sitting at number 14 on the Failed States Index after Afghanistan, Somalia and Iraq in 2012 (Achebe 2012: 250) We have dislodged all contenders to now occupy the No. 1 Rank among the poorest and most indebted nations of the world, despite being one of the leading oil producing countries of the world. Our borrowing and indebtedness to China is indisputably the most unjustified and highest for any living nation, showing that we could only be dead.

From the forgoing, in concluding therefore, we take solace in and borrow from the words of the trio of Chief Bisi Akande, Dinneya and Fred R. Harris and unabashedly propose that we can only halt in our fault now than allow the outlined faults to make us trip over the hedge. If we should strive to realize and achieve the following, it will rebuild our democracy, strengthen our constitution and constitutionalism and re-order the polity.

a) Scrapping of the Constitution of the Federal Republic of Nigeria, 1999 (as amended): This constitution has been adjudged not a constitution by all standards (as articulated above), hence in the words of Chief Bisa Akande, "the 1999 Constitution is Nigeria's greatest misadventure since Lord Lugard's amalgamation of 1914. The Constitution breeds and protects corrupt practices and

criminal impunities in governance. All the angels coming from heavens cannot make that constitution work for the progress of Nigeria. It should be scrapped as a bad relic of military mentality. . . Otherwise, the 1999 Constitution would continue to dwarf Nigeria's economy and stifle the country's social structure pending a disastrous and catastrophic bankruptcy." The 1999 Constitution should be scrapped and a new constitution that will reflect the values of the Nigerian cultural situation should be made immediately through the convocation of a sovereign national conference. The steps outlined above must be followed including conducting a referendum that will be free and void of state interference. The new constitution will be one that will address the following issues and chief among them, guarantee freedom to its citizens, right to resource control and use of what nature has endowed a people with; and for self-determination of the minor ethnic tribes and equal participation by all ethnic groups along ethnic lines without giving an edge to any one tribe not because they are most populated or least populated. The new constitution would be one that would engender ad promote Nigerians' desire and hope for a change, electoral reforms, eliminate corruption in all its forms and ramifications so that it would be spotted and arrested wherever it may be found, provide for exit of secession by any ethnic group provided the criteria are met, and for the eventual breakup of the geographical entity which is presently the flawed state of Nigeria along ethnic lines.

Our federalism should be revised to make it agreeable to the people and in tandem with its practice the world over. As had been canvassed all over, there will be need to convoke a national conference, sovereign or not, the fact that there are elected representatives notwithstanding. The various features which make federalism the pride of nations like the Switzerland, United States of America and India should be appealed to, erected and given adequate backing in the new constitution to make our democracy to blossom. The centralized and unitary form of our state apparatus or its indirect application in whatever form should be resigned to the dust bin of history vide the enactment of a totally new constitution based on democratic ideals, fully revised and made to genuinely reflect the qualities of true and genuine federalism, and it should be one that will in all ramifications be practically oriented and pragmatic. The constitutional reforms should also make provision for stiff penalties and sanctions should be spelt out for any such interference. Civil participation in the process of governance through voting, partisan politics, lobbying and protests for policies or program that are not aimed at the public good and a good constitutional and organizational frame work for democratic struggle and unfettered civil participation.

b) The judiciary and legislature should be made independent. The status of the states should be upheld and equated with the federal or central government. The federating units should be made more of a sovereign entity much like the federal or central, and all forms of interference by the centre should be outlawed and restricted only on those areas that the compact have agreed to, that such issues ought to be either exclusive, concurrent or residual in the hands of the federal, state or local government. In addition, the powers in the hands of either the federal or the states, the federating units should not be made absolute in any way so that it does not distort the equilibrium. In same way, representation in the National Assembly, which is both Senate and House of Representatives, should be equal so that no other consideration but equality of status is permitted to determine the criteria for representation and also, so that no state or region can claim superiority over the others.

c) Law making business should be undertaken as provided for in the Constitution and the federal and States Legislatures should not under any guise take leave to enact any law for which they don't have the legal and constitutional vires. Deliberate plan through requisite legislation for

reduction and elimination of tension generation and striving to achieve tension alienation due to fulfilled aspiration and electoral promises. Develop and enshrine law and order, re-orientation and a deliberate shift from the old values and an insistence on strict adherence to the rule of law. Capable and equipped crisis management system that is responsive to the yearnings and desire of the electorate, and not one imbued with theoretical and academic presuppositions that are practically irrelevant.

d) The citizenry should be given equal access to power, to being elected, to vote and be voted for and assigned roles in the government without recourse to any other conditionalities or criteria, not merely making these high sounding concepts reverberate on paper alone. This would allow the best brains and experienced to participate in politics. To make this function optimally, the monetary and other benefits that accrue to politics and politicians should be minimized largely so that the affluent and financial gains curtailed so that they would only come in trickles. The era of electing someone today and tomorrow, he has been automatically transformed from being a loafer and a pauper into an instant millionaire and power broker for venturing into politics. This is why politicians kill and main to go in and to maintain their grip onto power. We are also to ensure that constitutional reforms remove voting barriers, reduce election fraud and eliminate electoral violence by descending hard on the players and participants alike and imposition of sanctions and punishments including prevention from participation in the political process thereafter. Political reforms should also focus on Power Change and ensure its regularity, openness and fairness so that the people are reassured that their votes will count and that leaderships can be changed through the power of the ballot and not with the barrel of the gun. The change of power should be smooth and transparent to make for its regularity, openness and fairness so that the people are reassured that their votes will count and that leaderships can be changed through the power of the ballot and not with the barrel of the gun.

e) In tacking corruption, squandermania and other social vices that has propped up in our federalism, the first, step will be to close the widening gap between the powerful and the powerless, the haves and the have nots, the rich and the poor. This act of allowing the means of production and wealth to be concentrated in the hands of a few individuals and of the oil found on the Niger delta area in the hands of the Hausa/Fulani oligarchy from the North is a major destabilizing factor. It should be reviewed and rejected. More emphasis should shift to empowering the people and thus strengthening the bond of federalism that is hanging precariously very loose. This will have far reaching effects of making the middle class and the otherwise poor economically viable through meaningful employment and engagement in economic tasks. This will make more people to able to fend for themselves, and so watch and check the "fortunate" politician so elected or imposed on the people as he amasses and accumulates wealth, drawing on the petrolic accumulation of the people of the Niger Delta area. Reduce income and wealth disparity and poverty level of the people through an equitable distribution of wealth and in particular, the proceeds from the petrolic accumulation. In order to achieve this, then corporate entities should have their powers restrained and curtailed especially, the multi-national corporate companies who take pride in despoliation of our environment, and carting away huge profits from oil business and like ventures to their home states. They should be made to shoulder the responsibility of ameliorating the hazards caused in the environment of their host communities at the pain of heavy sanctions.

The system should be made to operate away from and outside of corruption and such like vices. For example, a contract review commission with powers to prosecute persons and indict companies for bogus contract awards and a law that blacklists such companies and their directors and officials will

ensure that contracts are awarded within allowable market rates and only to performing contractors, with proven track records, not merely because, they are party loyalists. The same law should make it mandatory that contracts and jobs awarded by a previous administration and inherited by a subsequent administration would be continued and completed by the new government using the original contractor initially awarded the job, unless the contractor is found wanting.

There is the dire need for the re-orientation of our values and priorities to make them compatible to democratic ideals and federalism and as a veritable aid in combating corruption. It is quite sad that our society places so much emphasis on wealth and materialism, without necessarily trying to find out how such wealth was acquired. Instead of showering people with money, we should internalise the ideals of honoring people who have achieved certain feats in fields or have distinguished themselves with things which have lasting effect on the people, to show that wealth and money (is not all). We should halt the move towards monetizing just everything. Such misplaced priority tend to make any person those holding public office to seek ways to surround himself with stolen wealth and money so as to be recognized and so honoured. This is the sad edge to the corruption and impropriety in office by office holders. This would be stopped if we make the corrupt practices monitoring and enforcement agencies to be independent of state politics and influence of those in power. Unlike what of obtains today, the economic and financial crimes commission should look towards tracking down all who are corrupt, not as a tool to witch hunt only political opponents and those who refuse to make returns, but as a means of cleansing the Augean Stable. This means that the current regime of plea bargaining should be stepped because it makes the government appear in the eyes of the public as collaborators, those who connived with the criminals in the first place. More than that, it tends to approve of such act and sanction the corrupt act as if to say, keep the stolen wealth we did not see, but the ones we have seen, we take only a part. It is ethically wrong, it is a noxious law crafted by the thieves in government, to shield the thieves. This is why corruption has become a hallmark of our political regime, whether civilian or military.

It is also imperative to as a matter of urgency that the government should encourage and fund nongovernmental organizations to help spot and report corrupt officials and all suspicious acts of those in power, so that the injustice of any well-managed charade set up by people in government can be gotten and treated with dispatch. Unless this is done, and those who possess and control state apparatus and power continue to define and regulate corrupt practices, then we will be daydreaming as they will surely continue to perpetuate corrupt practices, enact self-protective laws to inure themselves and perpetuate corruption and financial crimes in government; while below, we will witness those following them committing all sorts of crimes and misdeeds to get to the position that will afford them the privilege to also act with reckless abandon and impunity. This is why plea bargaining is heavily criticized and is not a good and effective tool at combating corruption and corrupt practices.

f) Its time all the people rise to uphold the basic features of democracy and federalism, and to say enough is enough of counterfeiting and producing a toxic mutant variants of federalism in the name of the true federalism. For instance, before government increases power tariffs and fuel prices, Government should ensure that power supply has not just improved, but its supply, distribution, marketing and customer-relations are people oriented and good. Also, the policy that proposes increase in the cost of any commodity or service should be reviewed in the light of the welfare and difficulties of majority of Nigerians and how that policy will improve the lives of the common man. It is to be recommended that before the government takes certain action of policy, e.g., bans importation of rice, Tokunbo cars, frozen fish, clothes (new or second hand – ok – wears), or

close/demolish down a particular market, the government ought to have a good alternative based on popular opinion of the people arising from the conduct of an unbiased secret referendum by the people, based on constitutional provisions for acceptance or rejection of all laws and to legitimize any radical proposal of the government. The constitutional provisions forbid the government interfering with the process. We refer to the Swiss experience where the people rejected the imposition of tax on property above 80,000 francs. (Apadorai 378). This sort of provision would be introduced into the new constitution that would arise from the scrapping of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the convocation of a sovereign National Conference and the enactment and adoption of a new constitution for Nigeria.

A government that achieves the above, may be democratic, despotic like it was in Libya or Egypt, federal like Switzerland, Australia or India or centrist like in socialist Venezuela or North Korea, but it will pass as a government that is democratic. In the words of Godson Dinneya, I concur that "all political systems have (and should have) both democratic and oligarchic components and those instances of acceptable oligarchy for the sake of effective government abound in so called democracies (Dinneya 25). If life is good and the people freely participate in and derive the benefits of being citizens of a state, like it is the case in Monaco, where the sole leadership is the Principality, then local conditions will show if the people are democratized or not, and not necessarily the prevarication of a third party or based on the indices designed by an alien body imposed on that people. This is the essence of democracy. We wonder if it will be any different.

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