

**JURISPRUDENCE AND THE IMPLICATIONS OF MORALITY FOR DEMOCRACY
IN NIGERIA FROM 2015 TO 2020**

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ABSTRACT: *In 2015, a general election was conducted that led to the change of baton from the Peoples Democratic Party (PDP) that pioneered the journey of the fourth republic which started in 1999. The change of baton brought in the All Progressive Congress (APC), a coalition of four different political parties representing different geopolitical region in Nigeria. As it is, the four political parties before the coalition had their own values which is a reflection of their moral and world outlook in a heterogeneous nation like Nigeria. The campaign slogan which was the basis of the contract of the political party with the masses was the need for change. A change that will guarantee socio-economic development, security of lives and property and justice for all. The expectation of the people was high on the assumption of office of the president in 2015 but the change promise has now been confirmed as a mirage. The objective of the study is to examine the implications of the application of the norms of morality in government in a heterogeneous state with diverse moral values like Nigeria. The study is doctrinal with data obtained from both primary and secondary sources. The study found out that the people and elected leaders were not on the same page as to the concept of change employed by the political party in government. The paper concluded that an elected president in Nigeria who is bound to emerge from one ethnic and religious background must shed the toga of personal morality and where norms of morality are to be employed in governance, the norms of public morality generally acceptable to the people should be employed.*

KEYWORDS: Democracy, morality, jurisprudence, norms, ethics, security

INTRODUCTION

The year 2015 was a watershed in the annals of democratic governance of the Fourth Republic in Nigeria. Nigeria attained independence from Britain on the 1st of October, 1960 and became a

republic in 1963. The first republic was truncated by a military *coup d'etat* on the 29th January, 1966. The second republic was between 1979 and December 1983 when the civilian regime of , Muhammadu Buhari. The third republic was between 1992 and 1993 under a military president, General Ibrahim Babangida and a National Assembly at the Federal level and elected civilian government at the state level and Houses of Assemblies. General Babangida who ousted Major-General Buhari in 1985 handed over power to an Interim Government, Chief Ernest Shonekan on 27 August 1993 and on 17 November 1993, General Sanni Abacha took over the government after the decision of the court presided over by Justice Dolapo Akinsanya. General Sanni Abacha remained in power till June 8, 1998 when he died and was replaced by General Abdusalam Abubakar. The government of Abdusalam Abubakar on 25 August, 1998 announced a timetable for election and return of the government to a democratically elected leaders. Local Government elections was scheduled for 5 December, 1998. Governorship/State Houses of Assembly was scheduled for 9 January, 1999; National Assembly elections, 20 February 1999 and presidential election, February 27,1999. Olusegun Obasanjo of the Peoples Democratic Party emerged as the winner of the presidential election and he was sworn in as the second Executive President of Nigeria on 29 May 1999. President Obasanjo was elected for the second term of four years in 2003 and he remained in office till 29 May, 2007. President Umaru Y'ardua succeeded Olusegun Obasanjo on 29 May , 2007 but died in 2010 and the then Vice-President , Goodluck Jonathan took over as the president. Goodluck Jonathan contested the 2011 presidential election and emerged as the winner and he remained in office till 29 May 2015 when he was defeated by the candidate of the opposition coalition party, Major-General Muhammadu Buhari of the All Progressive Congress (APC). Goodluck Jonathan was accused of gross incompetence. The All Progressive Congress candidate, Major –General Muhammadu Buhari who had earlier lost in three successive elections of 2003, 2007 and 2011 capitalised on the insecurity in the Northeast states and particularly the Boko Haram insurgency which in 2014 took another dimension with the abduction of about Two Hundred and Ninety female students of Chibok secondary school gained the sympathy of the masses. He was considered as the only candidate that can help restore sanity into the tense political atmosphere and who from his pedigree as a former head of state can help to curb the monster of corruption in Nigeria. Goodluck Jonathan conceded victory to Muhammadu Buhari on the ground that his ambition was not worth the blood of any Nigerian. It is a paradox that the bloodshed which Goodluck Jonathan intended to avoid in 2015 has continued to flow ceaselessly daily in an unprecedented manner from 2015 when Muhammadu emerged as the president.

In a heterogeneous nation like Nigeria composed of more than Two Hundred and Fifty (250) ethnic nationalities, the norms of law are the only acceptable means of social engineering in a pluralistic state for the goals of social order. Other norms such as the norms of morals and religion play secondary role to complement the norms of law. President Muhammadu Buhari mantra of

“Change” during the campaign of 2015 general election was a catching phrase predicated on his pedigree as a moralist and anti-corruption crusader. Each ethnic nationality in Nigeria has different and distinct moral values. The moral values of Muhammadu Buhari derive from his ethnic and religious background; hence his approach to the challenges in Nigeria has been influenced by the experience. Nigeria from 2015 to 2020 has been governed by the admixture of both the norms of law and the norms of personal morality regardless of the diversity. The consequence is the reality of things falling apart with unprecedented level of insecurity, corruption, economic recession, unemployment *inter-alia* the challenges taking Nigeria to the stake as a failed state.

This study examined the implications of ordering a heterogeneous nation with the norms of morality and to achieve the desire goal, part one of the studies examined the theoretical proposition of Jurisprudence and Morality. In this part, the nature of morality is discussed with a view to understanding *inter-alia* the relationship between morality and other norms of conduct; the essential features of morality and the likely consequences of application of the norms of morality in a heterogeneous state. The moral compass of governance in Nigeria from 2015 to 2020 is the theme of part two. The validity of moral norms as tools of governance in any society is the theme of part three. Implications of the norms of morality for democratic governance in Nigeria from 2015 to 2020 are discussed in part four and part five is the conclusion and recommendations.

Jurisprudence and Morality

An understanding of the concept of jurisprudence and its essence can be illustrated by the comparison between the physical and the metaphysical. Gold is a precious substance for physical adornment whereas knowledge belongs to the realm of the metaphysical. Knowledge and the search for it take precedence over the value of Gold in the physical. Jurisprudence as a field of study is concerned with the search for knowledge which is a principal thing without which man is doomed to perish. It is the name given to a certain type of investigation of an abstract general and theoretical nature which seeks to lay bare the essential principle of law and legal system. Glanville Williams describes it as the knowledge of the law. Harris¹ defines ‘jurisprudence as a ratbag, into it, are cast all kinds of general speculations about the law. What is it for? What does it achieve? Should we value it? How is to be improved? Is it indispensable? Who makes it? Where do we find it? What is its relationship to morality, to justice, to politics, to social practices or to naked force? Should we obey it? Whom does it serve? These are the questions which general jurisprudence is comprised. They can be ignored but they cannot go away’. In the view of Dias², jurisprudence is concerned with human thought in relation to society. It is thinking about law. Dias went further and stated that in a wide sense, jurisprudence is used to describe the legal connections of any body

¹ . Harris, J.W, ‘Legal Philosophies’ (Butterworths, 1997) p.8

² . Dias, R,W.M , Jurisprudence (Butterworth, 1985) see the preface

of knowledge and in a narrow sense, it means either the knowledge or skill in law. It can also mean the analysis of the formal structure of law³. The attempt to define law with precision led to the emergence of different schools of jurisprudence. To the natural law jurists, law is eternal and discoverable by reason, and according to the school, any law that is in conflict with the law of God is a corruption of the legal process and therefore not law. The positivist believes that a law is valid and binding once it is formally enacted by the authority. The sociological school conceives law as an instrument of social engineering. The Realist believes that law is what the judges do. In this study we are concerned with the concept of law from the positivist point of view, that is law, as enacted by the law makers for the guidance of the society.

Black's Law Dictionary defines morality to mean , conformity with recognized rules of correct conduct⁴. According to the dictionary, private morality means a person ideals, character, and private conduct, which are not valid governmental concerns if the individual is to be considered sovereign over body and mind and if the need to protect the individual's physical or moral well-being is insufficient to justify governmental intrusion. Public morality is considered to be the ideals or general moral beliefs of a society. The ideals or actions of an individual to the extent that they affect others⁵. Law morals and religion are system of rules which have normative characteristics.

The National Assembly in Nigeria comprises of the upper chamber, the Senate and the lower chamber, the House of Representatives. At the State level, the legislature are the Houses of Assemblies in each of the thirty-six(36) states of the federation. There are 774 Local Government Councils across the thirty-six states of the federation and six Area Councils for the Federal Capital Territory, Abuja. The legislature at the Local Government level is composed by the elected Councilors. The Constitution of Nigeria is supreme and its provisions have binding force on all authorities and persons throughout the Federal Republic of Nigeria⁶. Law as enacted by the legislature and the judicial decisions of the superior courts are the only recognized legal instrument for social control. The Constitution provides that:

The Federal Republic of Nigeria shall be a state based on the principles of democracy and social justice⁷.

By the constitutional provisions, law as enacted by the legislature cum the judicial decisions of the superior courts is the compass for charting the course of democracy and the realization of social justice to the exclusion of other norms of conduct in a pluralistic state. The state social order is

³ .Ibid, pp3-4

⁴ Black's Law Dictionary, Bryan A. Garner (ed) (A Thomson Reuters business,2004)p. 1100

⁵ . ibid

⁶ S.1 CFRN, 1999

⁷ .S.14(1) CFRN, 1999

founded on the ideals of Freedom, Equality and Justice⁸. The Constitution expatiates more on the requirements for social order among which are that every citizen shall have equality of rights; obligations and opportunities before the law; the sanctity of human person shall be recognized and human dignity shall be maintained and enhanced; governmental actions shall be humane⁹. The Constitution is unequivocal on the need for governmental action to be within the framework of legal norms. Justice which is the aspiration of every member of the social community in every democracy is the ultimate goal of law. As observed by Oputa J.S.C of blessed memory:

Under constitutional provisions guaranteeing the right to justice,

*The justice to be administered is not an abstract justice as conceived
By the judex but justice according to Law. Having seen the imperfections
Of the strict law as the hand maid of justice, it follows that to
justice with a human face the rule of equity must form part of the entire
social experiment¹⁰*

Justice in the strict legal sense is the end product of the effective application of the law of the land made by the competent law-making authority¹¹. The end of law is justice and justice is a branch of morality¹². Every piece of legislation is expected to have a minimum content of morality for it to be valid. For instance, morality demands that no law should be retroactive. The hint is that no society can be ordered strictly based on the norms of law. Law, morality and religion are coterminous but each has a distinct boundary. While absolute reliance can be placed on moral norms in a homogeneous society, the same will be a herculean task in a heterogeneous society, hence in a heterogeneous society, the norms of consensus will be the norms of law that will engender equality without any competition as to which tribal norm takes precedence. One noticeable feature of morality is that it is culture specific unlike law that has a wider geographical coverage. Morality in its pure state is enforced by the internal forces of conscience and not by coercion or external force as in legal norms. In Nigeria, moral values are as varied as the number of ethnic nationalities the union refers to as Nigeria. Public morality is usually codified and enforced by law in order to prevent harm to the public. The Constitution of the Federal Republic of Nigeria provides for the recognised moral values that bind all the ethnic nationalities. According to the Constitution:

⁸ .S.17(1), CFRN 1999

⁹ .S.17(2)CFRN, 1999

¹⁰ .Akanbi, M.M, 'The Many Obstacles to Justice According to Law' *The Judiciary and the Challenges of Justice*(Patrioni Books, 1996)p.34

¹¹ .ibid ,p.33

¹² ibid

The national ethics shall be discipline, integrity, dignity of labour, social justice, religious tolerance, self-reliance and patriotism¹³.

The above provision is a provision of the fundamental objectives and directive principles of state policy of Nigeria which is not justiciable. The implication of this is that a breach cannot be sanctioned. Ethics as used in the Constitution is a theory of value in the field of morals.

The fact that law and morals have distinct boundary cannot be a premise for the conclusion that the two maintain parallel lines. Law and morals are coterminous. There is always a moral duty to obey the law and where the law lacks moral content, moral argument can be adduced to press for changes through legislation¹⁴. The argument that a statutory provision should not have a retroactive effect is a moral argument. The fundamental human rights provisions contained in the Constitution and the African Charter on Peoples and Human Rights are grounded on moral foundations. Law and morality have the same goals for the society which is to impose certain standards of conduct without which human society would hardly survive and in many of these fundamental standards, law and morality reinforced and supplement each other as part of the fabric of social life¹⁵.

Democracy in Nigeria is charted by the compass of the norms of law as enshrined in the Constitution and the Electoral Act. Political party being the platform for democratic power is guarded by the provisions of the law and judicial pronouncements of the superior courts. Although political party manifestoes may be crafted to contain issues on morality, once such issues are contained in the party's constitution, it becomes legal issues. Members of the political party are required to be guided in their activities by the party constitution. A party member cannot express any moral issue not provided except where it is by consensus. For instance the issue of zoning of political posts is not usually contained in the Constitution of political parties, however, morality demands that in a heterogeneous nation like Nigeria, the need to ensure that no ethnic nationality or religious group dominates the affairs of the country demands that everybody must be assured of a sense of belonging. The elected president or the Governors is not allowed to parade his morality as that of the party or the nation. There are more than two hundred and fifty ethnic nationalities in Nigeria with each ethnic group distinct for her moral values. The challenge of democracy is that of responsibility as well as that of numbers¹⁶ and except the majority of the ethnic nationalities agree on the same common

¹³ . S.23 CFRN 1999

¹⁴ . Akomolede, T.I. 'Introduction to Jurisprudence and Legal Theory' (Niyak Print and Law Publications,2008) p.10

¹⁵ . ibid

¹⁶ . Gasiokwu, M.O.U, 'Sociology of Law',(Mono Expressions Ltd, 2004) p.30

morality, it will be counter-productive to foist upon the entire state the morality of a particular group. Heterogeneity demands that the common ground for interaction is the norms of law that will ensure equality. The diversity in Nigeria presupposes that whoever receives the mandate of the people, the repository of the national sovereignty must divorce himself or drop the toga of ethnic or religious affiliation/identity. The leader that Nigeria needs is not an ethnic bigot or a religious fanatic especially in a nation that is secular as Nigeria. The components of Nigeria make it imperative for conflicts but the amicable resolution of such conflicts with minimum damage to the psyche of any group is for an elected leader not to be guided by his/her personal or group morality. There are bound to be conflicting interests between individual and the different nationalities. The only way or resolving that conflicts is the employment of the norms of law and not that of morality in order to balance the conflicting interests. Morality cannot be used to balance the competing interests and where the government has opted for the norms of morality, the consequence will be anarchy and uprising. As the ultimate destination of law is justice, the question of justice cannot be externally determined from the societal perspective in view of the divergent views on the issue of justice in a heterogeneous state. Where law is called upon to determine or fashion out the boundary of justice, the immediate challenge is to establish the rule of law¹⁷. The idea of the rule of law requires that everybody must be equal before the law and every individual shall be entitled to equal protection of the law. A true sense of the rule of law expects both the leaders and the masses to be equal before the law. Rule of law abhors discriminatory measures. Advantages and disadvantages are to be distributed in a just manner. For instance a measure for the protection for one ethnic group should be the same measure for other ethnic groups and to ensure that democracy thrives in a heterogeneous state like Nigeria, the norms of law alone and not the norms of morality can be the acceptable gauge.

Moral Compass of Governance in Nigeria from 2015 to 2020

The campaigns of 2015 general elections that displaced the government of Goodluck Jonathan of the Peoples Democratic Party in Nigeria and brought in the present All Progressive Congress party led by Muhammadu Buhari were predicated on moral issues of incompetence, injustice, insecurity, corruption among others. Morality was effectively deployed to dislodge the hold of the Peoples Democratic party (PDP) that has been in the saddle from 1999. The era of the Peoples Democratic Party was considered as the era of wastage and therefore, a need for change. The slogan of “Change” was planted into the heart of the innocent masses who did not understand the philosophy and the extent of change contemplated by the present ruling party and the president. The development from 2015 to 2020 has since unfolded the fact that the masses and the ruling party and president were not on the same page. The change expected by

¹⁷ .ibid p.65

the masses was for good governance whereas the change of the incumbent ruling party and president is the change of guard from one ethnic nationality and ruling party to the other. The Northeast provided the evidence of the need for change. The insecurity in the three states of Borno, Adamawa and Yobe climaxed by the abduction of over two hundred and ninety female students of Government Science Secondary Schools of Chibok by Boko Haram in April, 2014 further strengthened the campaign for change. Suicide bombing of soft spots such as markets, public offices, worship centres and abduction in the northeast states were used as evidence to justify the allegation of incompetence and corruption levied against the government of Goodluck Jonathan. Boko Haram ideology that 'Western Education' is a sin arose from the injustice created by the political leaders, hence the ideological campaign for alternative mode of governance predicated on the tenets of Islam. The class society created by the mode of governance characterized by corruption which continued to widen the gap between the rich and the poor was attributed to poor leadership and governance made possible by western education. The political leadership lived in opulence to the consternation of the poor masses who lived in squalor and abject poverty. The blame of this societal evil was laid squarely at the door step of the Peoples Democratic Party, the political party that pioneered the fourth republic. The military was also accused of immorality in the prosecution of the war against Boko Haram. The military was accused of sexual abuse of the female and extra-judicial killings during military operations. The All Progressive Congress (APC) received additional support from the government of the United States of America on the ground of violation of human rights in Nigeria. President Barak Obama had earlier wanted Nigeria to recognize same- sex union which the then ruling government in Nigeria had opposed. The government of Nigeria enacted the law prohibiting same sex union in Nigeria which was considered an affront by the United States of America. The USA decided to frustrate the government in the war against insurgency by obstructing the purchase of military aircraft and other weapons needed from other countries and the United States in the prosecution of the war against insurgency.

The clamour for change was like the demand for a King in the land of Israel in the Holy Bible. A moralist was needed to salvage the ship of the nation that was about to capsize. The aura was in favour of Muhammadu Buhari, a former military head of state (1984-1985) with the pedigree of anti-corruption crusader. He had contested elections and lost in 2003, 2007 and 2011 and was therefore seen as the Messiah and he was not ready to leave anything to chance. As expected, despite the rising profile, there were accusations that he was not a democrat having ousted a democratically elected government of Alhaji Shehu Shagari on the 31st December, 1983. The allegation was considered insignificant as he had become a born again democrat. The issue was that Nigeria had more to gain from his experience against insecurity, anti-corruption and other social vices than to allow any other extraneous issues to obstruct the

benefits accruable if elected. The election was conducted but despite allegations of electoral malpractices such as under-age voting, the incumbent president, Dr. Goodluck Jonathan of the Peoples Democratic Party acted against the wish of his party and conceded victory on the ground that his ambition was not worth the blood of any Nigerian. The All Progressive Congress, a coalition of four different political parties (Action Congress, Congress for Progressive Change, All Nigeria Peoples Party, All Progressive Grand Alliance) with different moral values and from different ethnic nationalities was declared the winner of the election. The merger was facilitated by the imperative for change and not because of any common moral virtue.

The challenge of corruption from 2015 to 2020 has continued to be on the rise despite the activities of the anti-corruption agencies, that is, the Economic and Financial Crime Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). Although, the agencies have secured convictions of some offenders, the rate of success is considered low compared with the number of people indicted for corruption. The fight against corruption has also suffered a setback with the removal from office of the former Chairman of the Economic and Financial Crime Commission, Mr. Ibrahim Magu on the ground of corruption. The cases of corruption has continued to be on the rise since 2015 while at the same time the insecurity that was limited to the northeast states of Nigeria has spread to all the states in Nigeria manifesting in the forms of banditry, herdsmen/farmers clashes, kidnapping, cattle rustling, ritual killing, armed robbery and the likes. The hopeless situation and the dash of expectation have created doubt as to the identity and personality of the person in the helms of affairs in Nigeria. Obviously, the truth is that of the moral dichotomy between the personal morality of the leadership and public morality. The application of personal moral instrument has remained the bane of governance from 2015. As emphasized copiously in this study, morality being cultured specific and geographic bound cannot be employed in a heterogeneous state to achieve success in government.

The Plato Philosopher King who is also a moralist can only pontificate where he occupies a higher moral pedestal above that of the common man. The leader must subordinate his personal moral virtue to the dictates of public morality. The morality of the ruling party is not the same as the morality of the president who is the *de-facto* head of the party. The president is determined to fight corruption in all ramifications whereas the former Chairman of the All Progressive Congress (APC) demonstrated the party's idea of fighting corruption during the 2019 campaign for general election that every sinner that defects to the ruling party will be given automatic pardon. This statement motivated the glare of defection of corrupt politician during the election so that they can take refuge in the party against any probe and prosecution.

The moral war against corruption in Nigeria is based on the morality of the president which is against the Lon fuller prescription of generality. The war is considered a persecution and not a prosecution designed to whip opponent into existing order. This is responsible for the failure in securing conviction in some of the cases for lack of credible evidence. The entire first term of the government (2015-2019) was devoted for intra-party fight against members with opposing view. The former President of the Senate, Dr. Bukola Saraki faced series of trial on account of asset declaration beginning from the Code of Conduct Tribunal to the Supreme court before he was vindicated by the court. The executive, the legislative arm of government and the judiciary are enmeshed in one form corruption allegation to the other. The former secretary to the Government of the federation, Babachir Lawal, the former head of service Mrs. Winifred Ekanem Oyo-Ita ,the Niger-Delta development Commission *inter-alia* were alleged of corruption by the government. Democracy is predicated on the ideals of morality in which the government is chosen by the people and exists to champion the interest of the masses and not the personal interest of the leaders. The Constitution recognizes these moral ideals, hence the proclamation that sovereignty belongs to the people from whom the government derives its powers and authorities¹⁸. As a moral ideal, the Constitution prohibits further unorthodox take-over of government other than the means provided by the Constitution. The point succinctly made is the dichotomy in the scope of the morality of the leadership and that of the public. The failure of the war against corruption has been attributed to the personal morality of the president manifested by vendetta. There are allegations that people being prosecuted are the members of the opposition parties and those that have stepped on the toes of the president in his previous political career. In 2015, the former National Security Adviser, Colonel Sambo Dasuki (Retired.) was arrested for diversion of funds allocated for the purchase of military weapons. Investigations were said to have revealed that the money was diverted to fund the 2015 general election against the president who was a contestant. The money was alleged to have been disbursed to other members of the Peoples Democratic Party who are also being prosecuted. The step is commendable; however, the disobedience to the various orders of the courts that granted bail to Sambo Dasuki until recently was attributed to personal vendetta.

Insecurity challenges have spread across the states of the federation. The level of insecurity is alarming despite the propaganda that Nigeria has fared better. Nigeria is currently bleeding from the activities of terrorists. In November, 2020 at least not less than forty-three (43) rice farmers were rounded up in Zabarmari community and slaughtered by Boko Haram in Borno Stat. The terror group said the attack claimed the lives of seventy six farmers despite the figure reported by the government. They stated also that the attack was carried out as retribution against farmers for cooperating with the Nigerian military. The attack was alleged to have

¹⁸ .S.14(2) CFRN, 1999

taken place in a rice field in Garin Kwashebe, a Borno community known for rice farming on the day the residents of the state were casting votes for the first time in thirteen (13) years to elect local government councils, though many did not go to cast their ballots. The farmers were reportedly rounded up and summarily killed by armed insurgents. The farmers were attacked because they had disarmed and arrested a Boko Haram gunman a day earlier that had been tormenting them. The insurgents also torched the rice farms after the gruesome massacre¹⁹. The convoy of the governor of Borno State, Professor Babagana Zulum was attacked twice in 2020 with not less than eight people including policemen and soldiers in the convoy killed. In Nigeria, there is doubt as to the sincerity of the government in fighting the insurgents. The moral stand of the president who in 2012 was nominated by Boko Haram as one of the mediators between them and the federal government has continued to be a moral puzzle. Boko Haram said in 2012 that for them to observe ceasefire, the Federal Government must heed its demand by arresting and prosecuting the former Governor of Borno State, Senator Ali Modu Sheriff. Ali Modu Sheriff believed to have created the sect as his political vanguard is now a member of the ruling party²⁰. The former Theatre Commander of Operation Lafiya Dole, Major General Olusegun Adeniyi who complained of lack of ammunition in the prosecution of the war against insurgency was in December 2020 court-martialled and demoted by the military²¹.

The president in 2015 solemnly declared during his swearing –in ceremony that he was for nobody but for everybody. The declaration is an ideal of any elected president in a heterogeneous state like Nigeria. The president, even though, a Fulani man and the grand patron of the association of herdsmen becomes the burden bearer of all the ethnic nationalities and other groups in Nigeria. In Nigeria from 2015 to 2020, frequent herdsmen/farmers' clashes occasioning the death of large number of people on every strike and the destruction of houses and farmlands especially in Benue, Plateau, Kaduna and Nassarawa states among others have become a cause of concern. The herdsmen association on each occasion has always claimed responsibility for the attacks. The deadly activities of the herdsmen has not gone unnoticed, hence the declaration by the United Nations that the association is the third most dangerous terrorist organization in the world. The declaration has prompted people to call on the president to declare herdsmen in Nigeria as terrorists but the call has been neglected. The president has blamed foreign herdsmen for the carnage in Nigeria, a fact which shows that the government

¹⁹ . 'Suspected Boko Haram extremists kill dozens of Nigeria farmers' france24.com (accessed 29/03/2021)

²⁰ . 'Boko Haram names Buhari, 5 others as mediators' November 1, 2012 *Vanguard*. Vanguardngr.com (accessed 29/03/2021)

²¹ . Kingsley Nwezeh, 'Military Court Convicts General Adeniyi, Demotes Him over Leaked Video' *This Day*. <https://thisdaylive.com> (accessed 29/03/2021)

has failed in protecting the territorial integrity of Nigeria which he swore to protect. The refusal or the deliberate silence over the onslaught of herdsmen in Nigeria is a manifestation of the use of moral compass of nepotism in governance. The use of moral compass has made the government to fail in the fulfillment of the promises made to the people of Nigeria. The governor of Ekiti State, Dr. Kayode Fayemi, who also is the Chairman of the Governors' forum in Nigeria, was quoted as saying that the All Progressive Congress and president Muhammadu Buhari have failed to deliver all the campaign promises to Nigerians. According to the governor, 'we promised Nigerians quite a number of things particularly centering on security, anti-corruption and on economic growth. Have we been able to attain all of what we promised? Obviously not²².

Democracy thrives where there is the rule of law as opposed to the rule of man. The rule of law implies that everybody is subject and equal before the law. The four universal principles of the rule of law are accountability, just laws, open government and accessible justice²³. The rule of law is a moral virtue fundamental to the survival of democracy. The moral compass of the government is the rule of man and not the rule of law. The rule of law defended by an independent judiciary plays a crucial role by ensuring that the civil and political rights and civil liberties are safe and that the equality and dignity of all citizens are not at risk²⁴. Impunity is one of the moral albatrosses in Nigeria from 2015 and this is manifested by persistent disobedience to court orders under the guise of national security. The case of Sambo Dasuki, the former National Security Adviser to the former president Goodluck Jonathan is a glaring example of the disobedience to court order in Nigeria. Dasuki was arrested in 2015 over an allegation of diverting \$2.1 billion dollars arms fund. He was arraigned and granted bail by the orders of the courts including the ECOWAS court²⁵. The order of the court was not obeyed until 2019 after four years. El-Zakzaky, the leader of the Shiite Islamic sect were arrested in 2015 following the violent clash between his followers and the convoy of the former of Chief of Army Staff, General Tukur Buratai in which at least 347 sect members were killed. The government has also refused to obey the order for their release on bail. The Attorney-General of the Federation and Minister of Justice, Abubakar Malami in reacting to the order admitting Dasuki to bail was reported to have stated that the government was not under compulsion to

²² . 'Buhari, APC Have Failed to Deliver Campaign Promises to Nigerians' <https://thenigerianlawyer.com/buhari-e>

²³ . 'What is the rule of law?' *World Justice Project* <https://worldjusticeproject.org> (accessed 23/03/2021)

²⁴ . Massimo Tommasol, 'Rule of Law and Democracy: Addressing the Gap Between Policies and Practices' *UN Chronicle* [un//www.un.org/en/chronicle/arti](http://www.un.org/en/chronicle/arti). (accessed 23/03/2021)

²⁵ . *Dasuki v. Federal republic of Nigeria (ECW/CCJ/JUD/23/16) [2016] ECOWAS CJ 54; (4 October 2016)*

respect the court order²⁶. The disobedience of court orders is dictated by the morality of vengeance and it has attracted more foes than friends to the government.

Lack of integrity is another moral albatross. The Minister of Information and Culture is associated with lying in every attempt to defend the policies of the government. In Nigeria, politicians are deemed to be people without integrity because of deceit. Successive governments in Nigeria have been accused of falsehood and lack of transparency in the conduct of the business of government. Government officials are regularly accused of budget padding and inflation of contract sum. These immoral practices in the conduct of business government are evidenced by abandoned projects, decayed infrastructures and lack of social amenities. The business of government is shrouded in secrecy, a situation that has made fake news to be rampant.

The federal character principle is designed to ensure that appointments into public offices reflect the ethnic, religious, linguistic and the geographic diversity of the Nigeria federation. The Constitution provides that:

The composition of the government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few state or from a few ethnic or other sectional groups in that Government or in any of its agencies²⁷.

The above provision is prophetic and was designed to prevent a leader that may be inclined towards one ethnic or religious group in the conduct of government business. The provision, though a safety valve has been rendered impotent because it is not justiciable, hence the loophole has been exploited by the present government which in his appointment into public offices has favoured one ethnic and religious group at the expense of the other. The Catholic Bishop of the Sokoto Catholic diocese, Mathew Kukah and some leaders in the northern part of Nigeria as well as others from the southern part have been vocal against nepotism as a moral tool for governance by the administration of Muhammadu Buhari. Matthew Kukah described the government of president Buhari as the most nepotistic and narcissist government in

²⁶. Abdullahi Tijani, 'Nigeria is Violating Constitution on the El-Zakzaky and Dasuki cases' *African Liberty*.www.africanliberty.org of 22 July 2019(accessed 23/3/2019)

²⁷. Section 14(3) CFRN, 1999

Nigeria's history²⁸. In another occasion, Kukah stated that there would have been a coup or war in the country if a non-northern Muslim becomes a president and does a fraction of what Buhari did²⁹. Appointment into public offices by the Federal Government is no doubt skewed in favour of the ethnic and religious group to which the president is related and which he professes. Any government charted by the compass of ethnic bigotry or religious fanaticism will end up fragmenting the nation into pieces. In 2007, the former president of Nigeria, Chief Olusegun Obasanjo was quoted as saying:

Bola Tinubu's statement about Muhammadu Buhari in 2003(2007) is fairly prophetic, Muhammadu Buhari is an agent of destabilization, ethnic bigot and religious fanatic who if given the chance, would ensure the disintegration of the country. His ethnocentrism would jeopardise Nigeria national unity³⁰.

The above statement, though, denied by the alleged maker is prophetic about the danger of putting the fate of a nation in the hands of a religious fanatic and ethnic bigot. The various ethnic nationalities in Nigeria which have enjoyed harmonious relationship before 2015 are at loggerheads and relate with suspicion. The people in the southern part of Nigeria and the Christians are of the opinion that the Boko haram insurgency, banditry and kidnapping in alleged of being perpetrated by the herdsmen are pointer towards an agenda of Islamisation and fulanisation of Nigeria. The feelings, though not conclusive, are symptoms of distrust and suspicion which are the product of moral compass in governance. In Nigeria today every part and everybody regardless of ethnic or religious group is a victim of the security challenges. The statement attributed to the president that he could not appoint people whom he do not trust are evidential of the fact of marginalization that is contrary to the ideals of a federal system of government.

Separation of power is one of the beauties of democracy which enables checks and balances in the affairs of each arm of the government.. Each arm of the government is expected to enjoy a modicum of independence through financial autonomy. The Legislature, Executive and the Judiciary are equal partners in running the affairs of government; however, in Nigeria the executive has continue to see herself as the *primus inter pares*. The relationship between the National Assembly and the presidency between 2015 and 2019 was that of foes and not

²⁸ .Evelyn Okakwu, 'Kukah: Buhari's govt. most nepotistic, narcissitic in Nigeria's history' *Premium Times* , February 12, 2020. www.premiumtimes.com (accessed 23/03/2021)

²⁹ .Aanu Adegun, 'Kukah accuses president Buhari of nepotism' www.legit.ng (accessed 23/03/2021)

³⁰ . <https://punchng.com/tinubu-was-right-for-calling-buhari--a-tribalist-religious-fanatic-says-obasanjo>

partners. The National Assembly decided to resist the imposition of anybody on the two chambers as leaders. The emergence of Dr. Bukola as Senate president and Yakubu Dogara as the Speaker of the House of Representatives was seen as an affront and a challenge by the legislature on the pre-eminent position of the executive. The judiciary was not spared from the interference by the executive. In 2016, operatives of the Department of State Security (DSS) surrounded the official residence of Justice Walter Onnoghen and Sylvester Ngwuta at the judicial officers' quarters in Abuja³¹ and broke into the apartments around 1.am on Saturday. As at the time of the invasion,, Justice Walter Onnoghen had been tipped as the next Chief Justice of the Federation. He eventually became the Chief Justice of Nigeria after the incident but was prevented from completing his tenure by the government on the allegation of false declaration of assets. He resigned voluntarily in 2019. On the same day the premises of the Supreme Court justices were invaded, the operatives of the DSS also invaded the residence of Justices Ademola and Dimgba at the Apo Legislative Quarters Abuja and after a thorough search took away Justice Ademola at about 5.am while the brother of Justice Dimgba was alleged to be beaten up. Justice Muazu Pindiga of the Gombe High Court of Justice who was also the first Chairman of the Rivers state Election Tribunal was also arrested in Gombe. The violation of the right of privacy of the justices at such unholy hours was considered an attempt to emasculate the judiciary. The affected judges were alleged to be involved in questionable financial dealings. The residence of Justice John Okoro of the Supreme Court in Abuja was also raided and in Kano, the home of a High Court judge, Kabiru Auta was raided just as the home of the Chief judge of Enugu State, Justice A.I. Umezulike and the home of Justice Samia in Sokoto State were raided. The operatives were alleged to have recovered huge amount of cash in both local and foreign currencies from the homes of the affected judges³². In December 2019, operatives of the Department of State Security invaded the hallow chamber of the Federal High Court in Abuja presided over by Justice Ijeoma Ojukwu in an attempt to re-arrest Omoyele Sowore earlier released from the custody of the security agency that had remained disobedient to the order of bail for months. The attempt to re-arrest him took place less than twenty-four hours when the DSS reluctantly obeyed the order of release. The operatives of the DSS laid siege at the premises of the National Assembly and prevented members from entering the premises for some hours in 2016. The Acting president then, Professor Yemi Osinbajo condemned the action of the operatives as gross violation of constitutional order as it was not

³¹ . Evelyn Okakwu,'The real reasons why Dss invaded residence of Supreme Court Justices' www.thenigeriavoice

³² ..'Exclusive: Untold story of SSS raids on judge's homes in Abuja, five states' (October, 2016). www.premiumtimes.com>news (accessed 26/03/2021)

authorized by the presidency. The Director-General of the Department of State Security, Mr. Lawal Daura was immediately relieved of his post on the order of the Acting president.

Validity of Morality as Tool of Governance

Morality is one of the norms of conduct in ordering a society. Law, morality and religion are coterminous but at the same they maintain distinct boundaries. Issues of morality are normally decided by conscience or instincts³³ and there are bound to be disagreements since different people's consciences dictate different things³⁴. What people generally believe to be morally good may not be legally right. The Constitution of the Federal Republic of Nigeria is the grundnorm that cements the fabrics of the different nationalities. The Social order in Nigeria is founded on the ideals of Freedom, Equality and Justice³⁵ and in furtherance of the social order:

- (a) Every citizen shall have equality of rights, obligations and opportunities before the law
- (b) The sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced³⁶.

Application of morality as a measuring rod for the determination of appropriate conduct in Nigeria will be an unreasonable exercise in view of the obvious reality of diversities. The norms of morality that will be acceptable is the shared moral values otherwise known as public morality such as the issue of national ethics and the provisions of fundamental human rights. The acceptable moral values are not those dictated by prejudices but rather those that are objectively grounded. The controversy on the appropriateness of herdsmen carrying AK-47 in Nigeria has been approached from the point of prejudices. The Firearms Act prohibits expressly the possession of such arms without licence. Herdsmen in all locations and in all cases of banditry and kidnapping are found with the sophisticated weapons. The bandits are alleged to move openly in the public with the prohibited weapons without any attempt by the security agencies to apprehend them, yet a local farmer with Dane guns are daily intercepted by the police for being in possession of local guns. Political leaders in their debates have justified the possession of illegal weapons with arguments predicated on motives to the detriment of intention. Nigeria has continued to suffer under the yoke of the enforcement of personal morality of a leader and that of an identified group considered being sacred cow. Legal enforcement of morality will only be sanctioned for public morality. The morality of what is good for the goose is not good for the gander is an assault to the national psyche. It is

³³ .Doherty, M. 'Jurisprudence: The Philosophy of Law' (3rd edition, Old Bailey Press, 2004) pp35-36

³⁴ .ib id

³⁵ .S 17(1) CFRN, 1999

³⁶ .S.17(2)(a&b) CFRN, 1999

pertinent that each time communities are destroyed in Benue and Plateau states among others; the government has always promised that the criminals will be arrested even when the perpetrators declared that they are behind the heinous crime. However, each time a cow is killed, the government does not always condemn but operatives are deployed to fish out the criminals. A case in point was the killing of a first class traditional ruler in Ondo State Oba Israel Adeusi along Owo-Ifon road at Elegbeka area in 2020 by suspected herdsmen while returning from the meeting of state Council of Obas. The Federal Government merely condemned the act and nothing more but in February, 2021 about five traditional chiefs of the same community were allegedly invited to Abuja based on a petition from a herdsmen that a cow belonging to him was killed. The presidency was swift in condemning the government of Ondo State for issuing a quit notice to herdsmen to vacate the forest lands where they perpetrate atrocities against the rights of citizens. It has been argued that no southerner can infiltrate the forests in the northern states without being mauled by the government. Nigeria has become a theatre of absurdity where abnormality is treated as the ideal. Ethnic prejudices have destroyed the reasoning of the people to such an extent that in Nigeria some segments are advocating for grant of amnesty to bandits that have unleashed mayhem on families . In the northern states and particularly the middle belt states like Benue and Plateau and Kaduna in the north central , thousands of women have become widows while many children have become orphans apart from those displaced from their ancestral .The argument for amnesty is stretched further that the repentant bandits should be rehabilitated at the expense of the state treasury whereas the families thrown into perpetual sorrow exist without succor. The moral argument was previously canvassed for the rehabilitation of people alleged to be repentant Boko Haram members. The rehabilitated Boko haram members were alleged by the military as the one responsible for leaking intelligence report to the terrorists , thus making it difficult for the war to be won. In Nigeria while the borders in the southern part of the country are close, the same is not so in the north where the borders are open permitting the influx of foreign bandits and proliferation of light and small weapons.

Morality that should be celebrated should be based on the promotion of greatest happiness for the greatest number. Every occasion a clash is reported between herdsmen and farmers, the response of the government has always been to educate the affected people on the need for tolerance. In Benue State for instance, the major occupation of the people is farming and where crops or farmers are destroyed through grazing, the victims are usually condemned for intolerance.

As there are criteria for the validity of law, the norms of moral permissible in a democratic setting are required to fulfill some conditions especially in a pluralistic society. As stated earlier, such norm must reflect the dominant moral values, in other words it must be generally

acceptable. Equality and justice are the twin requirements for the sustenance of democratic governance. Justice as a destination is realizable where there is the rule of law. Rule of law is deemed to be in existence where there is equality before the law; supremacy of the law and the constitution. Justice is other-directed; that is, it concerns relations with others; it is owed as a duty to another; and it involves equality in the sense of proportionality³⁷. The moral authority of the law depends on its justice or at least its ability to secure justice³⁸. A rule of law, therefore, means a system in which (i) its rules are prospective (ii) possible to comply with (iii) promulgated (iv) clear (v) coherent with each other (vi) sufficiently stable (vii) the making of decrees and orders is guided by rules that are themselves promulgated, clear, stable and relatively general (viii) those who administer rules are accountable for their own compliance with rules relating to their activities and who perform these consistently and with law³⁹.

A moral code must have integrity and to ascertain the integrity of morality, the moral standing of the law-giver will be the microscope. The leaders are to stand by their moral dictate and not to act otherwise. The act of governance must not be shrouded in secrecy. Moral values championed by the government must not be alien or contrary to the established moral values of the society. The moral values must be such that can lead to change of attitude, in other words, it must be capable of changing the people from harmful practices to beneficial practice. The gains expected from a moral value should be ascertainable and not be an abstract proposition. A moral value that does not promote social solidarity in a heterogeneous nation will end up being a disaster.

Implications of Morality in Governance in Nigeria

The use of personal moral standard as opposed to public moral standard underlies the challenges that have threatened the social fabric of Nigeria. Democracy from 2015 has become a woe in Nigeria, hence the agitation for self-determination and the clamour for restructuring. The feeling of marginalization has become more pronounced while the various ethnic nationalities have no trust in one another. Insecurity has turned Nigeria to the land of bloodshed. Security challenges such as Boko Haram insurgency, banditry, kidnapping, herdsmen/farmers clashes, armed robbery and ritual killing are daily on the rise as the future is dotted with uncertainties. That Nigeria is the John Locke state of nature of the present century is not an exaggeration. It is a situation in which life is short, brutish and nasty. Kidnapping for ransom is no longer on the highway almost abandoned but the Nigeria of today is where people are abducted from their homes. The government has not been proactive and

³⁷ . Dias, R.W.M, 'Dias Jurisprudence' (Butterworth Press, 1985)p.490

³⁸ . ibid pp.490-491

³⁹ .ibid

each occasion of complaint, the government has always responded by explaining away the predicament of the people by saying that Nigeria is not the only country experiencing insecurity. At the wake of the killing of rice farmers by Boko haram in 2020, the reaction of the presidency was that the farmers did not take permission from government or obtain clearance before going to their farm. Boko Haram activities in 2014 was limited to the northeast states of Adamawa, Borno and Yobe. However from 2015 , insurgency and terrorists activities have spread to all the thirty-six states of Nigeria including the federal capital territory, Abuja. The Sultan of Sokoto has on many occasions condemned the insecurity in Nigeria and demanded proactive actions from the government. The revered monarch who is also the head of the Muslim in Nigeria was quoted as saying that seven out of ten kidnappers arrested are Fulani⁴⁰. The highly revered monarch stated also that not all Fulani are criminals. The president also described the herdsmen perpetrating heinous crimes in Nigeria as foreign herdsmen whereas whenever there is an onslaught, herdsmen association in Nigeria has always claimed the responsibility. Abduction of students from their schools has forced many states to close the educational institutions. Katsina State, the home state of the president is not exempted. In 2020 about 347 students were kidnapped from a secondary school in Kagara, Katsina State. In Niger state, schools have been invaded and students abducted from Kankara and in Zamfara State, farmers are made to pay taxes by insurgents before they are allowed access to their farms. In Kaduna Sate, about 39 students of the School of Forestry abducted in early March, 2021 by bandits are yet to be released .

Kidnappings have made travelling a harrowing experience in Nigeria. The affluent no longer travel by roads but by air. Car owners prefer travelling on public transport which is even not exempted from attack. Kidnapping in the southern part of Nigeria is attributed to the activities of herdsmen in the forest lands. The government of Southwest states in 2020 established the Western Nigeria Security Network (WNSNW) which initiative was initially opposed by the Federal Government. It is flabbergasting that such an initiative to complement the effort of the police that is already overwhelmed can be opposed by the presidency. There are insinuations from the north that the security outfit was targeted against Fulani herdsmen. The reasoning which is nauseating is a confirmation that the herdsmen are really behind the security challenges in Nigeria. In January, 2021 the Governor of Ondo State issued a seven day ultimatum to the herdsmen to vacate the forest lands in Ondo state. The order was equally challenged by the federal government. It is therefore the belief of an average Nigerian in the southern part of Nigeria that the federal government has a hidden agenda in favour of his ethnic nationality.

⁴⁰ . 'Seven out of Every Ten Kidnappers Arrested in Nigeria Are Fulani-Sultan' www.reubenabati.com.ng

The economy of Nigeria is on the lower rung with inflation spiraling daily. It is not unexpected as farmers cannot engage in farming activities for the fear of bandits and kidnapers. There is poverty all over the places amidst youth unemployment. The Governor of Benue State was attacked by herdsmen on Saturday 19 March, 2020. The governor had gone to inspect his farm when herdsmen dressed in blacked opened fire on him and his security aides. The Governor claimed that he ran for about 1.5 kilometres to escape. The herdsmen association acknowledged responsibility for the attempt. Investors are scared from Nigeria while travel restrictions are issued by foreign countries to their nationals not to visit Nigeria.

The security agencies in Nigeria are overwhelmed. Soldiers are deployed to check points in all the states in Nigeria. There are rumours of mass resignation from the Nigeria armed forces because of lack of ammunition and lack of adequate welfare of those in the theatre of war. Police barracks are attacked daily occasioning the loss of lives of policemen. Armed robbery has forced many commercial banks to reduce the number of branches in the country. Ritual killing is on the rise in addition to cyber-crime. These and other numerous challenges have made Nigeria to be a place where no value is placed on human lives at the same time where hard work is not rewarded.

CONCLUSION AND RECOMMENDATIONS

The study has revealed that Nigeria democracy is at the verge of disintegration awaiting only to be declared a failed state. The fault is not in the destiny of the people but rather in the style of government. Nigeria is a heterogeneous nation of more than two hundred ethnic nationalities with diversity expressed in the realm of religion, morals, social values and cultures. Nigeria democracy is usually not predicated on ideology, hence election into public offices is usually based on subjective and not objective criteria. The president as the head of government is supported by array of cabinet members who are only considered worthy of appointments for their contributions to the success of the political parties. The political office holders are only in government for their selfish interest, hence they are always timid to speak or give honest advice. This paper found out that election of leaders into public offices must be taken beyond ethnic or religious consideration. There should be objective standards for ascertaining the suitability of an aspirant to public office. The ideal instrument of social engineering is a pluralistic society is the norms of law and this should not be contaminated by other norms. The norms of morality where it is to be used should be the moral norms codified and generally acceptable to the masses. The challenges facing Nigeria today is not insurmountable if there are statesmen in government at the different levels. In Nigeria, the only means of changing government is the ballot box but the question remains about the credibility of the electoral process. The rule of law has been subordinated to the rule of man. Democracy is not about

winning elections but there must be in place strong institutions which are lacking in Nigeria. The fate of Nigeria from the ward level is usually determined by the illiterates who are usually exploited during elections because of their poverty level. What is required in Nigeria is not restructuring but rather the application of the right instrument of governance and a credible leadership. The basis of Nigeria should be examined in a conference where each ethnic nationalities can chose the path of their destiny.