

**DEMOCRATIC TRANSITION AND CONSOLIDATION IN NIGERIA: ONE STEP  
FORWARD OR TWO STEPS BACKWARD?**

**BY**

**Collins Chito Okpanum**

**THESIS**

Submitted to the  
KDI School of Public Policy and Management  
In partial fulfillment of the requirement  
for the degree of

**MASTER OF PUBLIC POLICY**

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## **ABSTRACT**

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This thesis examines the progress of democratic experiments in Nigeria since independence in 1960, in order to determine whether the country has been moving forward in that respect or not. In writing, we adopted a system of “interposition” following the study by Linz and Stepan in their 1996 seminal study entitled: “Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe”. In that study the authors gave the conditions that must be present for a democratic transition to be regarded as complete, and later, as consolidated to be: “when sufficient agreement has been reached about political procedures to produce an elected government; when a government comes to power that is the result of a free and popular vote; when this government *de facto* has the authority to generate new policies; and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*.” A consolidated democracy on the other hand is established when no significant national, political, social or institutional actors spend significant resources to bring about undemocratic regimes or turning to violence or foreign intervention to secede from the state. Secondly, a strong majority of public opinion holds the belief that democratic procedures and institutions are the most appropriate way to govern life in a society as theirs. Thirdly, governmental and non-governmental forces within the state

become subjected to and habituated to the resolution of conflict within the specific laws and institutions sanctioned by the democratic process.

This thesis is an attempt to interpose the above conditions on the Nigerian situation and thereby determine whether there has been any completed democratic transition and/or consolidation therein since independence in 1960.

### **CERTIFICATION**

The undersigned Certification has read and thereby recommend for acceptance by the Korea Development Institute (KDI), School of Public Policy and Management, the Thesis titled: Democratic Transition and Consolidation in Nigeria: One Step Forward or Two Steps Backward?

Professor Hun-Joo, David Park

(Supervisor)

Date:

## **DECLARATION AND COPYRIGHT**

I, Collins Chito Okpanum, hereby declare that this dissertation is my own original work and that it has been presented and will not be presented at any other university for a similar of any other award.

Collins Chito Okpanum

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**2004 (Year of publication)**

**With gratitude to God, this thesis is dedicated to:  
Noble Okoro and Osita Okeke  
Always there**

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# Chapter One

## Introduction

There are topical debates about the issue of the Nigeria's political progression in recent years. The international community is not left out on the subject of the direction of Nigeria's democratic odyssey. Democracy, it has been recently assumed, is linked with the very existence of most civilized nations, although there are objections against this type of assumption but mostly from Middle Eastern countries and other non-democratic regimes. Their grouse is that there is no system of government that is better than the others, except perhaps with respect to their respective modes of being implemented.<sup>1</sup>

The Nigerian state is not an island in the comity of nations. It has since inception in 1960 grappled with the issues of national character, patriotism and identity in unending conflicts of tribal and ethnic perceptions and national non-cohesion. This seeming uncertainty in the national psyche has been a concern to the generality of Nigerians and to other countries within the African continent and elsewhere.<sup>2</sup> The concerns of the international community with the Nigerian nation and its democratic experiments are to an extent understandable for various reasons. This is because it is always said that a common history can help hold a nation together, but the most significant comment to be on Nigeria in this regard is that it is not a nation on its

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<sup>1</sup> It should be noted that most states in the Middle East apart from Israel do not have democratic regimes. The governments in Jordan and Turkey are making serious in-roads in that direction, although it has been observed that Turkey leans more to the European Union (EU) than to other Arab countries.

<sup>2</sup> See J. Wayas, Nigeria's Leadership Role in Africa, (London: Macmillan Press, 1980) 33-34.

own right but a collection of tribes and group of tribes.<sup>3</sup> This has been the bedrock of most of Nigeria's problems since the colonial era. In his annual lectures in Nigeria entitled "The Cosmopolitan Expression of the Group Mind Principles: Patriotism and the Group Mind" the former South African President, F.W. De Clerk had observed that "democracy as imperfect as it is, is the best way to guide the freedom of all the people."<sup>4</sup>

Democracy is a practical system of government, no doubt. However, it should be pointed out from the outset that we do not intend to get into the seemingly unending argument of determining what democracy is or what it is not. In essence we will not try to define it or delve into the intricate philosophical foundations of the concept or why it is the best or worst form of government<sup>5</sup>. We will simply adopt the criteria set out by Dahl in his book on Democracy, when he said that it provides opportunities for (a). effective participation, (b). equality in voting, (c). gaining enlightened understanding (d) exercising final control over the agenda (e) inclusion of adults.<sup>6</sup> Although these conditions when applied to what is usually called "democratic regimes" in most third world countries will make those countries to fail the "democratic test," we still intend to accept it as the basis underlying the requirements of a functional democracy. However, the final basis of determining functionality, it appears, must vary from one polity to another.

Nigeria possesses certain potentials that are often lauded by the outside world. However, these potentials have continuously been dissipated through the combined factors of consistent misrule

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<sup>3</sup> See F.A.O Schwarz, Jr., Nigeria: The Tribes, the Nation, or the Race- The Politics of Independence, (Cambridge Massachusetts: The M.I.T. Press, 1965) at 10.

<sup>4</sup> See National Vanguard Newspapers, Thursday 18<sup>th</sup> December 2003. [www.vanguardngr.com](http://www.vanguardngr.com) (visited 19<sup>th</sup> December 2003.)

<sup>5</sup> For the treatment of these areas, see B. Dewiel, Democracy: A History of Ideas, (Vancouver: UBC Press, 2000); see also P. Birnbaum et al, eds., Democracy, Consensus and Social Contract, (London: Sage Publications, 1978); see also A. Touraine, What is Democracy, (David Macey Translated) (Colorado: Westview Press, 1997).

<sup>6</sup> See R. Dahl, On Democracy (New Haven, Yale University Press, 1998) at 38

by both the past military and civilian regimes, corruption of the federal civil service resulting in unimaginable bureaucratic bottle-necks in most national affairs. Nigeria is also the most populous black nation in the world, with an estimated population of One Hundred and Thirty Million people (130 Million) accounting for about one quarter of the total world's black population as at the year 2000. Finally Nigeria also possess vast natural resources ranging from petroleum and natural gas to gold, silver, tantalite, bitumen, iron ore, clay and copper to mention just a few. It is therefore not surprising that the issues concerning the fate of Nigeria is taken very seriously by the international community especially by African countries.

However, all what Nigeria has in manpower and natural resources, it lacks in political stability, inter-ethnic harmony,<sup>7</sup> religious tolerance, patriotism, sustained economic development and transparency in governance. Over a successive number of years spanning about thirty (30) years, Nigeria had suffered the fate of some countries in South America, like Chile, Argentina, Uruguay and Brazil where successive military dictatorships held the countries hostage for so many years in the 1970 and 1980's. The military held Nigeria hostage for more than 30 years since independence, and only finally relinquished power in 1999, after having seized power in the early hours of January 1, 1984. It is important therefore to place this work squarely within the context of a country that is struggling to free itself from the tight hold of an ambitious and politically conscious military establishment.<sup>8</sup> In that wise therefore, the issue of Nigerian democratization can only be understood as an experimentation that is situated within the context of an ambitious military establishment, uninformed or misinformed electorates and less than

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<sup>7</sup> See "Monarch Accuses Government of Insensitivity to Warri Crises" Vanguard Newspapers December 29 2003. [www.vanguardgr.com](http://www.vanguardgr.com) (visited 30<sup>th</sup> December 2003.)

<sup>8</sup> See V.E. Dike, "Barriers to True Democracy in Nigeria" [www.gamji.com](http://www.gamji.com) (visited 5<sup>th</sup> November 2003).

altruistic political class.<sup>9</sup> But why has democracy become such a big problem for Nigeria and indeed the whole of Africa and parts of Latin America and Asia? Is it traceable to the crises in the democratic institutions or to the operators of the different democracies?<sup>10</sup> In our opinion, it is really not easy to give any one correct or all encompassing answer.

## 1.2 Literature Review

This work, though primarily about Democratic Transition and Consolidation in Nigeria, would adopt a global approach to the issues discussed. In doing so, it will start with the review of some principal related literature on the subject. Some of these texts are not particular to the Nigerian situation. Democracy is relatively a universal concept (at least theoretically) and the conditions for its sustenance more often than not are presumed to be the same everywhere.<sup>11</sup> Therefore, the related lines of literature cited in this thesis are predicated on the themes of democratic transition and consolidation, the conditions necessary for a successful grooming of democratic regimes, the reasons for failures of democratic regimes (even when already consolidated) and why democracy is said to be the best form of government by its proponents.

Democracy as a concept is one which many authors avoid defining,<sup>12</sup> but in contrast choose to describe. Right from the time of the ancient “Greek City-States” when the practice of allowing

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<sup>9</sup> Altruism is a factor that is now said to be in short supply within the confines of Nigeria’s political circuit as the major determinant of political participation for most people is what they could get out of office.

<sup>10</sup> See generally M.J. Crozier et al, The Crises of Democracy: Report on the Governability of Democracies to the Trilateral Commission, (New York: New York University Press, 1975).

<sup>11</sup> We have in mind conditions like free and fair elections, free press, an impartial judicial system, virile civil society and so on.

<sup>12</sup> See A. Lijphart, Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries, (New Haven: Yale University Press, 1999).

certain categories of men in the society to partake in elections was introduced, (women, peasants, non-property owners and slaves were often excluded from voting at the time) there has been far reaching changes and modifications to both the principles and practices of democratic governance. However, the modern day democratic institutions have been said to be a weak semblance of the practice that was adopted in the Greek city-states in almost all its ramifications<sup>13</sup>. One of the major reforms to the democratic principles has been the universal adult suffrage, which permits adults (men and female of full age) to have the right to participate in the electoral process, except otherwise legally disqualified by other factors.

In their book “Problems of Democratic Transition and Consolidation- Southern Europe, South America and Post-Communist Europe”<sup>14</sup> Linz and Stepan did not bother with the definition of the term “democracy;” but concentrated on the concrete issues of democratic transition and consolidation. The questions posed by the authors were: how the character of different non-democratic regimes affects, or does not affect the paths that can be taken to complete a democratic transition?<sup>15</sup> Also, what implication do prior non-democratic regimes have for the probable tasks of getting a transitioned democracy consolidated?<sup>16</sup>

In answering these questions the authors were of the opinion that a democratic transition is regarded as complete: [w]hen sufficient agreement has been reached about political procedures to produce an elected government; when a government comes to power that is the

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<sup>13</sup> See Robert Dahl, Democracy and its Critics (New Haven and London: Yale University Press, 1989) at 14.

<sup>14</sup> J. Linz and A. Stepan, Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe, (Baltimore and London: The John Hopkins University Press, 1996).

<sup>15</sup> *ibid*

<sup>16</sup> *ibid*

result of a free and popular vote; when this government *de facto* has the authority to generate new policies; and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*.<sup>17</sup>

Linz and Stepan insist that with the completion of democratic transition, there are still many tasks left to be completed, conditions to be established, attitudes and habits to be cultivated before a democracy could be said to have been consolidated.<sup>18</sup> A consolidated democracy was then said to be one in which: 1. No significant national, political, social or institutional actors spend significant resources to bring about undemocratic regimes or turning to violence or foreign intervention to secede from the state. 2. A strong majority of public opinion holds the belief that democratic procedures and institutions are the most appropriate way to govern life in a society as theirs. 3. Governmental and non-governmental forces within the state become subjected to and habituated to the resolution of conflict within the specific laws and institutions sanctioned by the democratic process.<sup>19</sup>

Having said all of the above, it was pointed out that consolidated democracy might still break down in the future and there might not be one type of consolidated democracy as time progresses within a particular polity or geographical region.<sup>20</sup> According the authors, there are however five interacting and mutually reinforcing “arenas” of consolidated democracy, all of which must co-exist within a state for the march to democratic consolidation to begin. Firstly, there must exist the conditions for the development of a free and lively civil society, where self-organizing groups, movements and individuals who are relatively autonomous, articulate views and create

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<sup>17</sup> *ibid.*

<sup>18</sup> *ibid*

<sup>19</sup> *ibid* at 6.

<sup>20</sup> *ibid*

associations to advance their interests. Secondly, there must be a relatively autonomous political society, which involves the polity arranging itself to contest the legitimate right to exercise control over public power.<sup>21</sup> Thirdly, there must be the rule of law to ensure legal guarantees for the citizens. Fourthly, there must be a state bureaucracy that is usable by the new regime. Finally there must be an institutionalized economic society in the form of sets of socio-politically crafted norms that mediates between the state and the market.<sup>22</sup> This, the authors believe is necessary because of the difficulty in getting a consolidated democracy in a pure market economy.<sup>23</sup>

Returning to the earlier issue of the definition of democracy, Carl Cohen<sup>24</sup> questioned many of the earlier definitions of the concept of democracy and considers them as falling short of bringing out the whole essence of the democratic principles.<sup>25</sup> He grounded his own principle of democracy on “participation” of the community members in the making of decisions that affect their welfare.<sup>26</sup> He further posited that in this way the presence or otherwise of functional democracy can be measured through the “Dimensions of Democracy” which involves the ascertainment of the “Breadth of Democracy, the “Depth of Democracy” and the “Range of Democracy”.<sup>27</sup> By the “Breadth of Democracy”, he meant the proportion of the people in the society who are qualified to take part in the democratic process and actually do so. Any person or

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<sup>21</sup> It is generally believed that this role is usually fulfilled by Non-governmental Organizations that effectively mobilize public opinion within respective polities even if they do not contest for political power themselves.

<sup>22</sup> *ibid* at 7-9.

<sup>23</sup> Whether any economy could be said to be a pure market economy is in doubt, as there appears to be some elements of governmental regulation in every modern economy.

<sup>24</sup> C. Cohen, Democracy, (Georgia: University of Georgia Press, 1971).

<sup>25</sup> *ibid*. Cohen posits that the term “democracy” has been variously defined as “the government by consent of the governed, rule by the majority, government with equal rights to all, sovereignty of the people” but that none of these definitions could be said to be exhaustive of the term “democracy”. He went ahead to offer a definition that he admitted would need further refinement, defining democracy as being “that system of community government in which, by and large, the members of the community participate, or may participate, directly or indirectly in the making of decisions which affect them all”.

<sup>26</sup> *ibid*. See also Carole Pateman, Participation and Democratic Theory, (London: Cambridge University Press, 1970).

<sup>27</sup> *ibid*

group of persons who should have participated but did not, either because of apathy, social pressure, deliberate choice or disqualification, according to Cohen, makes the democratic process imperfect.<sup>28</sup> But is this the position in real political life? If that is so, then it is arguable that every democracy must be said to be imperfect because in most states, there are usually threats of and actual boycott of polls by individuals and party members who feel that certain procedures or electoral processes were not followed.

Discussing the meaning of the “Depth of Democracy”, Cohen said that this is somehow tied to the “Breadth of Democracy” and is determined by the generality with which the members of the public participate in the electoral process, and the fullness and the character of participation that takes place. The “Range of Democracy” on the other hand is the number of issues on which the voice of the people rules, but Cohen admits that it is often very difficult within a given community to determine the issues that the voice of the people can genuinely be said to have decided. This is because there are often several other factors that may not be apparent but which contribute to societal decision-making processes.<sup>29</sup>

Cohen further discusses the conditions that are necessary for the realization and maintenance of any democratic governance. He affirmed that all the conditions are important for the success of democracy, but that the degree and nature of their importance vary; so also is the relationship between democracy and these conditions which are usually difficult to formulate.<sup>30</sup> In the same vein, he opines that there is no harmony between the conditions of democracy amongst themselves, as the maximization of one condition may lead to the restriction of the other(s). The

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<sup>28</sup> *ibid*

<sup>29</sup> *ibid.*

<sup>30</sup> *ibid*

five conditions of democracy that were identified by Cohen are: 1. Material Conditions- which encompasses such matters as geographical environment, machinery of participation and the economic arrangement of the community as a whole. 2. Constitutional Conditions- which include the principles in the Constitution of the community (here it is usually a state) to protect its citizens and thereby guarantee them free speech, freedom to assembly and to criticize their leadership among other things. 3. Intellectual Conditions consists of the capacities of the citizens to be able to perform the tasks which democracy imposes on them and the provision of the requisite information and training for the performance of such tasks. 4. Psychological Conditions are the complex attitudes and dispositions which the citizens have to manifest for the success of the democratic process; while protective conditions are the capacities of the democratic community to defend itself against external onslaught, and internal deterioration.<sup>31</sup>

He concluded that one major obstacle against successful democratic process would be the difficulty of realizing the material conditions in most countries. This he said is because democracy would not achieve for any community what the material and intellectual conditions of that community cannot support.<sup>32</sup> In essence, the level of development, (this including intellectual and other incidental areas), can be said to be instrumental in a relative sense to the nature and consistency of a particular type of democratic governance that a particular society is able to achieve. One might ask whether this is why there is much turmoil in the democratic governance of most third world nations? In any case, Cohen's conclusion cannot be taken too far in the sense that in some traditional societies, including the cities of the ancient Greece, while the intellectual dispositions of the elite could be said to be very high at the time, this might be totally

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<sup>31</sup> *ibid.*

<sup>32</sup> *ibid.*

same with the other areas of material development. Also of note is that in some traditional, or even in a loose sense, primitive societies, there were relative democratic processes that were based on other indices like age, social status, gender and maybe occupation which cannot be said to fall within the modern tenets of democratic universal adult suffrage. The material development of those societies cannot be said to have been well-developed at the time vis-à-vis the present day developments. The contrary argument might be that the level of democratic governance which such societies could afford was a mirror of their material and intellectual development. In any case it seems to be neither here nor there.

Writing on the topic of Representative Government,<sup>33</sup> (which term was used in the book as a synonym for democracy), John Stuart Mills stipulated three conditions that would support the active participation of the citizens of any state in the affairs of the state in order to enhance governance. According to him, the first is that the people for whom a democratic form of government is intended, must be willing to accept it; or not so unwilling to pose an insurmountable obstacle to it.<sup>34</sup> Secondly, the citizenry must be willing and able to do what is necessary to sustain democracy and finally, they must be willing to do what is required of them to enable the democratic set-up to fulfill its purposes.<sup>35</sup> Mills contended that the failure of these conditions renders a form of government, whatever favourable promises it may otherwise hold out, unsuitable for its purposes.<sup>36</sup>

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<sup>33</sup> H. B. Acton, ed., J. S. Mill, Utilitarianism, Liberty, Representative Government: Selections from Comte and Positivism (London and Melbourne: Everyman's Library, 1972).

<sup>34</sup> *ibid*

<sup>35</sup> *ibid*

<sup>36</sup> *ibid* at 190.

In further outlining the basic foundation of any democratic set-up, Mills opines that within the limits set by the three conditions identified above, institutions and forms of government are then matters of choice within a particular polity in question<sup>37</sup>. This choice however is to a great extent determined by the distribution of social power within the particular state concerned. This is because whatever is the strongest power in the society concerned will ultimately obtain the governing power in the state. In essence, according to Mills, a state cannot strictly speaking choose its own form of government as this is determined by the interaction of various social factors within the state.<sup>38</sup> But why is this scenario obtainable? Mills contend that this is because the strongest power bloc in a society more often than not obtains the political power, therefore, the distribution of power within the societies cannot be durable, and will remain unstable, until it is accompanied by an altered distribution of position in the society itself.<sup>39</sup>

Mills then went ahead to consider the conditions necessary for good Representative Government and found that the quality of human beings within the state in which the governance is to be exercised is the paramount condition. This seems to be on all fours with the position of Cohen above that the material and intellectual conditions of a society are fundamental to level of democratic governance that such a society can sustain. It is then seemingly clear that Mills position makes it imperative that the first element of good democratic government should be the promotion of the virtue and intelligence of the citizenry, which he termed a very important condition. If that is not done, Mills contend, or not done in a proper and effective manner, individuals' interests and concerns in the state would take precedence over the general interest

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<sup>37</sup> *ibid*

<sup>38</sup> *ibid* at 195.

<sup>39</sup> *ibid* at 196.

and welfare of the people which would make good governance virtually impossible or very difficult.<sup>40</sup>

In his much cited work, Alexis De Tocqueville,<sup>41</sup> writing about “Democracy in America”, attributed the progress and tranquility in America of the mid 19<sup>th</sup> century to the American democratic dispensation.<sup>42</sup> This he believed had ensured relative equality and justice among the American people and helped to avoid all the turmoil, wars and revolts that were ravaging the aristocratic Europe at the time. He attributed the scenario in America on the social conditions that existed in America which he said were democratic. He further maintained that it being that social conditions determine all laws, norms and usages within a society, that all of the above items were fully democratized within the American society of the 18<sup>th</sup> century<sup>43</sup>. It does appear that he did not take into consideration the practice of slavery that was going on at the time in America, which would have rubbished his premises or maybe he chose to ignore the practice in setting out his thesis.

Going further, Tocqueville attributed the stability of the American democracy in part to the effectiveness of its judiciary and judicial institutions. According to him, this effectiveness was made possible because the American judiciary concentrated on its assigned functions of arbitrating on contested laws and not stepping outside those bounds; for example venturing into the areas that were considered political.<sup>44</sup> Another factor that he said contributed to enhance the American democracy was the Federal Constitution which divided powers clearly between the

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<sup>40</sup> *ibid* at 207.

<sup>41</sup> P. Bradley, ed., A. Tocqueville, Democracy in America (New York: Vintage Books, 1945) at 48.

<sup>42</sup> *ibid* at 7 (vol. 1)

<sup>43</sup> *ibid*

<sup>44</sup> *ibid*

federating states and the federal government. This helped to keep tensions between the different levels of government away or at least to the very minimum. Then there was the liberty of the press and right of association which ensured that no manner of censorship of the press was allowed. All these contributed to checking any “tyranny of the majority” through the formation of civil and political associations that disseminated the needed information.<sup>45</sup>

Writing on the subject “The Trouble with Democracy,” William Gairdner<sup>46</sup> was of the opinion that the problem with democracy as a system of governance is that the language of democracy has been distorted whereby people now equate democracy with freedom. He pointed out that the concept of democracy has always had its own surprises, in the manner many people were surprised to hear that the Greek democracy did not permit women, prostitutes, slaves, foreigners and people of questionable birth or morals to vote.<sup>47</sup> In essence, it was Gairdner’s view that democracy has never been a dream system of government which many people have imagined it to be, principally because of several procedural and other substantive obstacles that are usually placed on the way on the citizens’ right to participation.<sup>48</sup> We saw above that one of the requisites of democracy is the effective participation of all those qualified, but sometimes there are obstacles against such full participation. Some of those obstacles can be said to include the unwritten codes of money politics and another could be the marginalization of women in the political arena of many societies.<sup>49</sup>

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<sup>45</sup> *ibid*

<sup>46</sup> W. D. Gairdner, The Trouble with Democracy, (Toronto and New York: Stoddart Publishing Company, 2001.)

<sup>47</sup> *ibid*

<sup>48</sup> *ibid*

<sup>49</sup> It is generally believed that women do not have the amount of money that their male counterparts possess to throw into political activities. For instance, it is on record that even in the U.S.; no woman has ever emerged as a major party’s candidate after primary elections in order to contest the presidential election as the presidential candidate of the party.

In his book, “Democracy and Prebendal Politics in Nigeria,” Richard Joseph maintained that the presence of competitive ethnic and regional blocs within the Nigerian state, which facts are also complicated by differences in language, religion and economic attainment have made Nigerians to pursue democratic ideals. This he said is because the citizens are more often than not unable to rely on any government or agency of the government in which their particular subgroup of the population is not directly and effectively represented. The politics of the day becomes that of ethnicity, tribalism, nepotism and other types of patronage, in which, to be able to gather votes across other divides of the country apart from the candidate’s place of origin proves to be a very difficult task.<sup>50</sup> This is notwithstanding the further fact that at some level of politicking, the issue of voting in itself becomes a very cosmetic and near futile exercise, as the incidences of political intimidation and election rigging, as always, takes away the right of free choice from the electorate. This state of affairs has in part been blamed on the historical foundations of the Nigerian state and by extension its democratic rule and electoral processes as they were mired in sectarian violence and politics of intimidation and carpet crossing.<sup>51</sup>

### **1.3 Historical and Constitutional Background to Nigeria’s Democratic Struggles**

The historical emergence of Nigeria as a state dates back to 1914 when the protectorates of Southern and Northern Nigeria were merged into one as the province of Nigeria by the executive fiat of Lord Fredrick Lugard, the then Governor General. Although Nigeria, like every other formerly colonized state in Africa and elsewhere was the creation of European and Western

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<sup>50</sup> R.A. Joseph, Democracy and Prebendal Politics in Nigeria: The Rise and Fall of the Second Republic, (Cambridge: Cambridge University Press, 1987).

<sup>51</sup> *ibid* at 41

expansionist ambitions; it would be an error of judgment to assume that the people inhabiting the territory that was named Nigeria had little or no history before the boundaries were negotiated by western powers.<sup>52</sup>

The acquisition of the territory known as Nigeria by the British Imperial government, took the forms of treaties of cession and through physical conquest. On the 6<sup>th</sup> of August 1861, the territory of Lagos (Nigeria's former capital) was ceded to the British Imperial government by Oba Docemo via a treaty of cession<sup>53</sup>. Other similar treaties also ceded areas like Badagry, Ilaro, Lekki and surrounding areas all within the Southwest area of Nigeria<sup>54</sup>. However, the territory of Nigeria at the time contained not only a multiplicity of local tribes, but also a number of great kingdoms that had evolved complex systems of governance that were independent of the eventual contact with European powers.<sup>55</sup> There was the great kingdom of Kanem Borno, with a known history of more than one thousand years, the Fulani Empire, which for hundreds of years before its conquest by Britain had ruled most of the Savannah of Nigeria. There were also the kingdoms of Ife and Benin, whose art had become recognized as among the most accomplished in the world at the time.<sup>56</sup> These kingdoms had established several systems of oligarchic governance for ages, but the question whether such modes of rulership and succession were any way democratic, would be to say the least a moot question. This is because the issue of

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<sup>52</sup> M. Crowder, *The Story of Nigeria*, (London: Faber and Faber, 1966) at 21.

<sup>53</sup> Article 1 of the *Lagos Treaty of Cession* states among other things, that: "In order that the Queen of England may be better enabled to assist, defend, and protect the inhabitants of Lagos, and to put an end to the slave trade in this and neighbouring countries, and to prevent the destructive wars so frequently undertaken by Dahomey (the present Benin Republic) and others for the capture of slaves, I Docemo do with the consent and advice of my council, give, transfer and by these presents grant and confirm unto the Queen of Great Britain, her heirs and successors for ever, the port and island of Lagos, with all the rights, profits an revenue as the direct, full and absolute dominion and sovereignty of the said port, island and premises with all the royalties thereof, freely, fully, entirely and absolutely". This type of nebulous and omnibus clause, of course cannot validly be inculcated into any modern agreement.

<sup>54</sup> *ibid*

<sup>55</sup> *ibid*

<sup>56</sup> *ibid*

democratic principles, in the western sense that is, was virtually alien to the people of Nigeria and infact Africa at time. The predominant modes of administration were through the hereditary monarchies which were old in time and tradition that in some instances the British government had no option than to make use of them in the administration of the respective areas.<sup>57</sup>

However, it should be noted that the establishment of constitutional governance in the territory of Nigeria was not an abrupt occurrence, but was part of an initial systematic fortification to the British expansion in the continent of Africa.<sup>58</sup> In response to the request for protection made by British Traders operating along the western coasts of Africa, a British consulate was in 1849 established for the Bights of Benin and Biafra, with headquarters in the Spanish Island of Fernando Po. The area under the superintendence of the Consul extended at first from Lagos in the western part of Nigeria to Bimbia in the Republic of Cameroun.<sup>59</sup> However, the Consul's primary duty was to watch over the commercial interests of the British Empire and to ensure that any commercial treaties entered into with the local chiefs or other British subjects were kept and implemented. There were many of such treaties mostly in favour of the British commercial interests as it later turned out.<sup>60</sup>

Another incidental fall-out from the establishment of this link with the West was the firm recognition by the British government of the role and titles of the local African chiefs, to the extent that any dispute between British traders and the local chiefs were settled by way of

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<sup>57</sup> *ibid*

<sup>58</sup> F. Schwarz Jr. *supra* note 1 at 30.

<sup>59</sup> B.O. Nwabueze, A Constitutional History of Nigeria, (Essex: Longman Group, 1982) at 5.

<sup>60</sup> *ibid*

meetings and consultations and not by the use of force as was initially the case.<sup>61</sup> However, this relationship that existed between Britain and the local chiefs in Nigeria and in other parts of Western Africa has been severally criticized as having been very lopsided in favour of the British. This criticism centered solely on the nature of the treaties that were signed between the local chiefs and British officials. These treaties, which were more often than not treaties of cession and protection that gave away the rights and lands of the local people, were not in any way explained in any detail to the chiefs who could neither read nor understand the English language. Even the interpreters themselves, although being indigenes, were often accused of collusion with the British officials in defrauding the local people. The interpreters of course always denied such allegations.

In general, Africans were used to centuries of governance that was based on kinship, age grades, elders council and in some instances religious leadership hierarchy. Essentially therefore, the nature of rulership and succession strictly speaking were not processes open to the general will of the people in a democratic process. Some people like women were not part of the decision making process. It is imperative to point out that at the time, the issue of universal adult suffrage which permitted all adults to vote and be voted for was not an option. This is because in majority of the cases, some non-titled men, although being men, but were treated as women and not permitted into the decision making processes of the villages and town unions. This is not in the least a surprising set-up, as even in the ancient Greek city-states, which is still generally considered as the bastion of modern democracy, there were no democratic rights for women, slaves, foreigners and imbeciles, and that system was still at the time considered democratic.

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<sup>61</sup> *ibid*

Returning to the Nigerian scenario, it should be pointed out that the democratic experimental journey of Nigeria did not start with any of the ancient empires that we earlier mentioned. Those empires were dynasties in their own rights and their destiny depended to a large extent on the strength of their armies and their leaderships to ward off marauding aggressors.<sup>62</sup> Later in time though, there were created formal states as they appear nowadays, especially after the contact between Africans and European powers became more formalized.

Nigeria is a union of the different ethnic nationalities that make up the federation as we have it today. This unity was somewhat not well planned, and therefore included such widely differing groups of people, that not only the British Imperial Government who created it, but the inhabitants themselves often doubted whether the Nigerian state would survive as an enduring political entity.<sup>63</sup> This doubt as to the possible survival of Nigeria as a political entity has persisted till the present day from the 1<sup>st</sup> of October 1960 when Nigeria became a sovereign state. This, in a long way goes to explain our present interest in the issue of democratic transition and consolidation in Nigeria. Can there be democratic consolidation in polities that are considered to have been built on shaky foundations? That is the question.

Constitutionally however, the development of Nigeria's democratic structures and other laws properly so-called (excluding customary laws) was squarely the prerogative, and at the initiative of the British Imperial government. It must be noted however, that the coming of the British did not in any way extinguish the customary laws and custom of the local people, except when such customs and laws were regarded as being repugnant to natural justice equity and good

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<sup>62</sup> See "Ancient African Empires" Online: [www.historylink101.com](http://www.historylink101.com) (visited October 4<sup>th</sup> 2003).

<sup>63</sup> *ibid*

conscience<sup>64</sup>. The recognition bestowed on the local customary laws was very important, particularly in relation to the local government administration.<sup>65</sup> This is because it enabled the British government to establish and practice in Nigeria, with varying degrees of successes, the system of Indirect Rule<sup>66</sup>. This involved the utilization of local chiefs for administrative and tax collection purposes under the supervision of the British District Commissioners (DCs).<sup>67</sup>

This system succeeded tremendously in the Northern part of Nigeria based on the near deity-like status that was enjoyed and are still being enjoyed by the traditional rulers of the North: the Emirs. However, in the Southern part of Nigeria, the system of indirect rule was a near disaster, because of the fact that the Southerners were a lot more individualistic in their orientation to governance and social relations and do not practice the type of reverence found in the north to their traditional rulers and heads.<sup>68</sup> For instance, an attempt by the British administrators to use traditional Heads to introduce taxes to the South led to several disturbances and riots, the most notable being the Aba women riots of 1929 by Southern women revolting against being taxed. Following the failure of the indirect rule experiment in the South, the colonial government then created the unpopular institution of “Warrant Chiefs” in the South to help mostly in the collection of government taxes. The failure of indirect rule in the South was because the system, for its effectiveness, presupposes the existence of a centralized authority with some administrative machinery at its disposal.<sup>69</sup> Apart from the few areas of the South like the Binis and the Yorubas, the Southern tribes and ethnic groups lacked any type of centralized

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<sup>64</sup> Thus the courts at the time used to administer what was called the “repugnancy test” to determine whether to allow the application of any local laws or not.

<sup>65</sup> See W.B. Hamilton, *The Evolution of British Policy Toward Nigeria*, in R.O. Tilman and T. Cole, eds., The Nigerian Political Scene, (Durham: Duke University Press, 1962) at 17- 18.

<sup>66</sup> The system was very successful in the Northern part of the country but failed woefully in the South.

<sup>67</sup> *ibid*

<sup>68</sup> *ibid*

<sup>69</sup> O.I. Odumosu, The Nigerian Constitution: History and Development, (London: Sweet and Maxwell, 1963) at 12.

administration, that is, in the sense of a central authority as was found in the North.<sup>70</sup> It could thus be concluded that the introduction of the system of indirect rule to the southern part of Nigeria, as was the amalgamation of the Northern and Southern Nigeria by the British Imperial government in 1914 was a terrible error of judgment on the part of the British colonial administrators.

### **1.3.1 The Making of the Constitutions**

Following the amalgamation of Nigeria in 1914, one of the major preoccupations of the British imperial government was how to establish effective centralized governance for the whole territory. This involves the making of the requisite effective laws for the new territory. The powers possessed by the British Parliament in Nigeria at the time differed in application in the Colony of Lagos, (being the administrative head of the government) and the other parts of the country (the Protectorates). As part of the British Empire's dominion, the Colony of Lagos came under the direct and full legislative authority of the British Parliament, as the supreme legislature of all the Dominions.<sup>71</sup> However, even with this understanding, the British government only in rare cases did legislate for the overseas Dominions, doing so only in broad matters of general Imperial concern; for instance, as with declaration of status, international relations, social and economic development, finance, war and defence among others.<sup>72</sup> It must be noted that the

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<sup>70</sup> *ibid*

<sup>71</sup> B.O. Nwabueze, Constitutional Law of the Nigerian Republic, (London: Butterworths, 1964) at 32.

<sup>72</sup> *ibid*

legislative powers of the Imperial Parliament at the time with respect to the colonies were absolute and not subject to any legal limitations.<sup>73</sup>

With the passage of time and gradual acquisition of political education by many Nigerians, there were series of agitation for the entrenchment of some form of democratic system of government, even if under colonial administration. This was meant to bring some Africans (for our purposes, mostly from Nigeria and Cameroun) who had become well educated in Britain and elsewhere at the time into the leadership profile of the country. The educated Nigerians disliked the existing system at the time, because it afforded them no place in the running of their country and that situation was regarded as grossly undemocratic. Added to that, those Nigerians were not afforded the opportunity of entering into the administrative service of the federation, and this created a conflict between these Nigerians and the political officers, that had acted as a link between native administration and the imperial government.<sup>74</sup> This crisis of confidence created rooms for more agitation by the Nigerian elite for recognition and after several representations were made to the Secretary of State for the Colonies, and several initial rebuffs, the British government finally realized the need for a form of representative government in the province of Nigeria.<sup>75</sup> As a consequence of this realization, in 1922 the Clifford Constitution was adopted introducing for the first time into colonial Nigeria, the elective principle on a national scale.<sup>76</sup>

Under the 1922 constitution, the governor was empowered to govern with the advice of the executive and the legislative councils. He was required to in “all cases” consult with the

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<sup>73</sup> *ibid*

<sup>74</sup> *ibid*

<sup>75</sup> *ibid*

<sup>76</sup> This was named after Sir Hugh Clifford, the Governor General of Nigeria at the time.

executive council except in cases of extreme urgency, like national emergency or disaster.<sup>77</sup> He could however ignore their advice.<sup>78</sup> It should be pointed out that while this constitution empowered the Governor-in-Council to make laws for Nigeria, it also allowed the governor the right to make laws for the Northern territory of Nigeria by proclamation.<sup>79</sup> The Northern part of the country at the time was seriously backward in both education and development and was initially very reluctant to join in the new Nigeria for fear of domination by the more educated Southerners.

Still on constitutional developments, the 1922 constitution continued to be in operation until 1946 when the Richards constitution was introduced<sup>80</sup>. This constitution naturally built upon the gains of the 1922 constitution. Under this constitution, the right of the governor to legislate for Northern Nigeria by proclamation was abolished and the whole country came under the jurisdiction of a central legislative council.<sup>81</sup> The 1946 constitution went further for the first time to establish a House of Assembly and a House of Chiefs for Northern Nigeria, while introducing only Houses of Assembly for the Eastern and Western Nigeria. This was not surprising, in that, as was pointed out above, the traditional chieftaincy institution in the North was more effective and therefore of value to the colonial government than those of the West and the East. Generally however, this constitution did not still meet the requirements expected of it by the Nigerian elite, although they were allowed to “discuss” issues concerning Nigeria in their various positions in

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<sup>77</sup> Odumosu *supra* note 54 at 23.

<sup>78</sup> Odumosu, *supra* note 54 at 20.

<sup>79</sup> *ibid*

<sup>80</sup> Named after Sir Arthur Richards, the then Governor-General of Nigeria.

<sup>81</sup> *ibid*

the executive and legislative councils, but not to take part in the management of the country. This situation of things in the opinion of the Nigerian elite was utterly unacceptable.<sup>82</sup>

The events of the Second World War had some form of dramatic effects on the political development in Africa, especially in West Africa. Nigeria benefited from this new awakening that was aroused by the war around the world. Independence in countries like India and Pakistan among others did a lot to encourage the democratic struggles in Nigeria. By this time the earliest political mobilization movement, the Nigeria Youth Movement has become moribund in 1941 and the need to create another platform led to the formation of the National Council of Nigeria and the Camerouns (N.C.N.C.) founded by one of the prominent nationalists, Dr. Azikiwe as a nationwide political party in 1944<sup>83</sup>. This was coupled with the effective contribution of West African Students Union (WASU) based in London at the time. Another factor that added much impetus to the democratic struggles was the establishment of several indigenous newspapers among which were the *West African Pilot* and the *Comet* to counter perceived British propaganda and educate the local people on the activities of the nationalists.<sup>84</sup> This strategy worked effectively prompting the then British Prime Minister to angrily remark: “that there be no mistake in any quarter, we intend to hold what we have. I have not become the King’s first Minister to preside over the liquidation of the British Empire”.<sup>85</sup> But the British Empire was finally liquidated although not by the same man.

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<sup>82</sup> *ibid*

<sup>83</sup> See generally G. Hyden and M. Bratton, eds., Governance and Politics in Africa, (London: Lynne Rienner Publishers, 1992).

<sup>84</sup> *ibid*

<sup>85</sup> *ibid* at 34.

The political developments in Nigeria were to a certain extent influenced by the events in Ghana, or that events in both countries influenced each other in their march to independence.<sup>86</sup> The seeming exception was that unlike in Nigeria where there were many prominent nationalist leaders like Dr. Azikiwe, Alhaji Balewa, Chief Awolowo, Ahmadu Bello, Aminu Kano, Anthony Enahoro, Herbert Macaulay, Ernest Ikoli and Akanu Ibiam among others; in Ghana, it was virtually Dr. Kwame Nkrumah that dominated the political firmament and had no difficulty becoming the first Prime Minister of Ghana (the then Gold Coast) at independence in 1957.<sup>87</sup> The Ghanaian independence in 1957 was an “inflammatory” incentive to the nationalist leaders in Nigeria to request for independence immediately in Nigeria although the Northerners in Nigeria, somehow being afraid of possible domination by the South, opposed the demand for immediate independence for Nigeria, but instead urging that self-rule should be granted as “soon as practicable”.<sup>88</sup> After several Constitutional conferences in London and two subsequent constitutions (in 1951 and 1954) Nigeria became independent on the 1<sup>st</sup> of October 1960, ushering the First Republic.

#### **1.4 First Republic (1960-1966): Completed Transition?**

With independence in 1960, Nigeria adopted the Independence Constitution and became a sovereign nation. The powers of the British Parliament to legislate for any part of Nigeria were therefore terminated and with the attainment of the republican status in 1963, the Queen of

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<sup>86</sup> See generally B.A. Ojo, ed., Contemporary African Politics: A Comparative Transition to Democratic Legitimacy (New York: University Press of America, 1999).

<sup>87</sup> D. Rooney, Kwame Nkrumah: The Political Kingdom in the Third World (New York: St Martin's Press, 1988) at 130.

<sup>88</sup> This was the remark of Sir Ahmadu Bello the leader of the North at the time in response to demands by the South for independence for Nigeria in 1957.

England ceased to be the ceremonial Head of State for Nigeria. However, the first republic lasted for only six (6) and the euphoria that accompanied the Nigerian independence celebrations vanished. This was because of an attempted but “failed” overthrow of the federal government by a group of young military officers led by Major Chukwuma Kaduna Nzeogwu on January 15, 1966. Although the *coup* attempt failed, in the sense that the officers that planned the *coup d’etat* could not assume powers, the military still took over powers because the federal Prime Minister (Balewa) and the Premiers of the Northern and Western regions had been assassinated by *coupists*. In essence, the first democratic experiment had been effectively effectively.

The question we will attempt in this section is whether the truncated first republic was really a completed democratic transition from the British colonial power to the Nigerian elite? In answering this question we must refer back to the definition of a completed democratic transition above by Linz and Stepan, that being our guide. According to the learned writers, a democratic transition is complete “when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the result of a free and popular vote, when this government *de facto* has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*”.<sup>89</sup> An analysis of these conditions would seem to suggest that the transition to democratic rule in Nigeria in 1960 was a completed transition. This is because there were sufficient agreements reached between the Nigerian nationalists and the British colonial officials to the political procedures that produced the elected officials of the first republic. The Nigerian government was also the result of a free and popular voting process by the citizenry and the elected government was vested with all the constitutional powers to

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<sup>89</sup> Linz and Stepan *supra* note 4 at 1.

generate new policies, wielded legislative and did not have to share any of the executive, legislative and judicial powers with any other bodies legally. From all indications, it does appear that most peaceful transfer of power from colonial powers to local people should fulfill these requirements of completed transitions. For instance, the transfers of powers from the British colonial governments in Ghana, Burma (Myanmar) and India fulfilled all the requirements of completed democratic transition listed above.

It is therefore apposite at this point to say that the first completed democratic transition that was witnessed within independent Nigeria was truncated on the 15th of January 1966. The question whether that transition or any of the democratic transitions in Nigeria had been consolidated before the *coup* will be answered in the latter part of this work.

## **1.5 Aftermath of the January 1966 Coup D' Etat**

The lasting effect of the *coup* of 15<sup>th</sup> January 1966 was to permanently alter the political and economic equation of the Nigerian polity.<sup>90</sup> Long before the *coup*, the southerners were the major powers to contend with in Nigeria within the military circles, (that is, the high hierarchy) the economic and the educational circles, as were in the civil service and the academia in general. The *coup d'etat* of January 1966 and its aftermath changed all that.

The January 1966 *coup* was a culmination of series of events, which had their origin principally, but not solely on some crises situations: the elections crises in the Western region of Nigeria in

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<sup>90</sup> See generally J.J. Oluleye, Military Leadership in Nigeria: 1966 – 1979, (Ibadan: University Press, 1985).

1964 and the general strike of the same year. The elections of 1964 had produced candidates in the western region from the rival party New Nigerian Democratic Party (NNDP) that were unpopular to the generality of the public.<sup>91</sup> The favoured candidates of the United Progressive Grand Alliance (UPGA) surprisingly lost the elections even in areas considered as their key strongholds. The events that followed were recriminations, assassinations, arson and looting coupled with political thuggery of the highest order, mostly targeted at the candidates of NNDP.<sup>92</sup> These events coupled which some said were overly condoned by the federal government at the time, coupled with the high level of political patronage and public display of unexplainable wealth by politicians and government officials led to the military incursion into politics.<sup>93</sup>

However, it should be noted that the incursion of the military establishment into politics was not limited to Nigeria at the time; but was a negative vogue that engulfed almost the whole of Africa and Latin America in the 1960s and 1970s. For instance, in October 1963 the democratic government of Hubert Maga in Benin Republic was deposed in a military *coup* and succeeded by Christophe Soglo. In Togo in 1963, President Sylvanus Olympio was assassinated in a military *coup*; and President Miguel Fuentes of Guatemala was deposed in a *coup* in 1963. Also in 1963 President Juan Bosch of the Dominican Republic was deposed in a *coup*. In essence, the wave of *coup d'etats* that swept through Africa and Latin America were predicated on one reason or the other of the social and economic indices that were obtainable in those countries. However, the Nigerian situation could not really be pinned down on any particular reason, but on cumulative of factors.

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<sup>91</sup> See general J. De St Gorre, The Nigerian Civil War, (London: Hodder and Stroughten, 1972).

<sup>92</sup> N.J. Miners, The Nigerian Army: 1956-1966, (London: Methuen And Co., 1971) at 155.

<sup>93</sup> *ibid*

We must however overlook the intricate make-up of most of African countries, that is, in terms of the manner of their ethnic and tribal constitution. This fact has also contributed to the problems in Nigeria after independence. Nigeria is country made up of more than two hundred and fifty ethnic groups, each with its own dialect, cultures and tradition. Sometimes the traditions and dialects are similar or even the same, but at other times they are very divergent. Generally however, the northerners are mostly Moslems and speak predominant Hausa and Fulani languages among other minor ones, while the southerners are mostly Christians and speak several major languages and dialects. The dicey situation that accompanied the January 1966 *coup* was that while most of the army officers that took part in the *coup* were Southern officers, the major political and human casualties were mostly Northern politicians, including the Prime Minister of Nigeria Alhaji Balewa and the Premier of the Northern region Sir Ahmadu Bello. The *coup* was therefore in the estimation of the Northerners, either rightly or otherwise a Southern coup.<sup>94</sup>

The events that followed led to a near total breakdown of law and order in Northern Nigeria, which prompted a series of targeted killings against all Southerners in the North. The leader of the failed *coup* attempt major Nzeogwu and his team could not successfully take over the powers of the federal government and the highest ranking army officer General Aguiyi Ironsi took over leadership powers of the federal government. Ironsi himself was an Igbo from the South, and the fact that the first *coup* was termed a Southern coup necessitated a counter-coup in July of 1966 by Northern officers, in which mostly Southern army officers were murdered in a show of vendetta. This brought the then Lt. Colonel Yakubu Gowon (later General Gowon) into the

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<sup>94</sup> *ibid*

saddle of national leadership. The final outcome was the declaration of the secessionist state of Biafra in 1967 and eventually the thirty month civil war that ended with the defeat of the secessionist state of Biafra and the continuance of a united Nigeria.

## Chapter Two

### 2. Nigeria' Second Republic

The events of the military takeover of power in 1966 meant that the army remained in the saddled of national leadership in Nigeria until 1979; when a civilian regime finally returned to power. Within the same period of military dictatorships, there were several *coup d'etats*, some successful, others ending in abysmal failures<sup>95</sup>. The assumption of political power by the military establishment had introduced a dimension that was hitherto unknown in Nigeria's political history and military establishment, that is, high-level corruption in the military.<sup>96</sup> General Gowon,<sup>97</sup> who had assumed power in 1966, became increasingly intent on holding on to power against all promises of returning the military to the barracks by 1976. Allegations of corrupt practices against the military establishment and their civilian cronies were rife and the requisite attempts were not made by the military rulers to checkmate the negative trend that was unfolding. The incidences of corruption were widespread and were widely condemned although some

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<sup>95</sup> See T. Falola and J. Ihonvbere The Rise and Fall of Nigeria's Second Republic, (London: Zed Books, 1985) at 18

<sup>96</sup> This is not to say that there was no corruption before the military intervention, except that the military were most of the time outside the political realm and facing their military duties of protecting the territorial integrity of the nation.

<sup>97</sup> Gowon assumed power after the 1966 coup although he was not the most senior officer, which act was one of the genesis of the crises that led to the Nigerian civil war between 1967 and 1970.

people are of the opinion that it was only half-hearted efforts that were made to combat the scourge.<sup>98</sup> In essence, the allure of power had finally caught up with the military and military professionalism was being sacrificed for diverse patronage.<sup>99</sup>

As an aftermath of the increasing politicization of the military establishment, there was disgruntlement on the part of some officers who were considered core professional officers in the army. This incidence, coupled with the apparent reluctance of General Gowon to keep to the 1976 date of handing over power to civilians; led to a coup in 1975 where General Gowon was overthrown Brigadier (later General) Murtala Mohammed. At the time Gowon was away to Kampala, Uganda on a Heads of States summit of the Organization of African Unity (OAU, now, the African Union AU). He subsequently travelled from there to London on self-imposed exile, coming back to Nigeria several years later. General Mohammed himself, having taken over from Gowon, was assassinated six months later in a failed military coup in February, 1976, and General Olusegun Obasanjo took over national leadership and implemented a programme that returned the country to civil rule that ushered in the second republic on the 1<sup>st</sup> of October, 1979. Alhaji Shehu Shagari became the civilian President in the second republic.<sup>100</sup>

The incursion of the military into politics in Nigeria astounded so many observers.<sup>101</sup> This is because the role and nature of the colonial army in the majority of African states made it quite unreasonable for one to think that the quest for political power and leadership could be one of its

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<sup>98</sup> See D. Hess and T.W. Dunfee, “*Fighting Corruption: A Principled Approach: The C2 Principles (Combating Corruption)*” (2000) 33 Cornell Int’l L.J. 593 14 594.

<sup>99</sup> *ibid*

<sup>100</sup> It has been the belief that Shagari was not the best candidate for the post but only got the position because the out-going military wanted it to be so. Therefore when Shagari was overthrown by the military in 1983 many political observers had no sympathy for the former President although he had his admirers.

<sup>101</sup> The surprise of many commentators was not that the military entered the political arena, but how the whole of Africa was engulfed by the phenomenon of coup d’etat was worrying.

pre-occupation.<sup>102</sup> However, it did appear that the observers were mistaken at the time because the spate of military incursion into the politics of African states came on like wild fire and spread in very quick succession through most of African states. This trend was obtainable in Latin America at the time, sharing the ignominious indices of underdevelopment, poverty and excessive external migration with so many countries in Africa, Nigeria inclusive.

## **2.1 The Second Republic and the Problems of Democratic Governance**

We recall that Cohen mentioned Intellectual condition as one of the requirement of democracy: that is, that the citizens are able to perform the task which the democratic experiment places on them and the government should provide adequate information and training for such citizens' duties. The germane question at this point might be: what is really the problem of democratic governance in Nigeria?<sup>103</sup> Is it traceable to the Government or to the citizens or to a combination of factors? There could be particular or several reasons when other countries are being talked about, but it does appear that the Nigerian situation is very confounding to critics and commentators. The issue does not appear to be the lack of any reason(s) to be adduced but the multiplicity of reasons that could be responsible. In his book "The Trouble with Nigeria,"<sup>104</sup> Professor Chinua Achebe, arguably the best writer to have come out of Nigeria wrote that "the trouble with Nigeria is simply and squarely a failure of leadership. There is nothing basically wrong with the Nigerian character....the Nigerian problem is the unwillingness or inability of its leaders to rise to the responsibility, to the challenge of personal example which are the hallmarks

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<sup>102</sup> V.A. Olorunsola, *Soldiers and Power: The Development Performance of the Nigerian Military Regime*. (California: Hoover Institute Press, 1977) at 1.

<sup>103</sup> It has been argued in some quarters that Nigeria's problems are known by almost every citizen, but that the problem is the absence of the leaders with the political will to address these problems.

<sup>104</sup> C. Achebe, *The Trouble with Nigeria*, (London: Heinemann Educational Books, 1984) at 1.

of true leadership.”<sup>105</sup> There can no better truth as captured in the above statement. Leadership has been one of the essential attributes lacking seriously in the Nigerian and African political terrain, and the problem seems to be that the more Nigerians yearn for credible leadership, the more they get the opposite. But whom do we blame for this? According to J.S. Mills, the citizens of any nation must be ready to do what it takes to sustain democracy and fulfill its purposes. The question is: has it been done by Nigerians to the extent required to consolidate our democracy?

However, it is not only in Nigeria that the problem of “shaky democracy” exists. The situation is that in other Africa countries, especially in West Africa, it is much easier to delineate the problems apart from the leadership problem. In Nigeria the problems are innumerable. For instance, in countries like Togo and Gabon, where the Presidents Eyadema and Omar Bongo have been ruling their respective countries for an upwards of more than thirty years, and the problems in those countries have been attributed not to leadership qualities *per se*, but also to the docile nature of their respective civil societies. Other factors have been the oppression and repression of the opposition groups by the respective governments and the use of the apparatus of government to perpetuate their respective regimes. Added to these are the high levels of officially induced corruption that has permeated the law enforcement agencies making them to compromise their duties and only act in the interest of, and at the whims and caprices of the government.<sup>106</sup>

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<sup>105</sup> Ibid.

<sup>106</sup> The situation in these other countries is that relations of the leaders are made top government executives and therefore accountability and probity are virtually not heard of. For example, in Guinea Bissau, the President’s Son is also the country’s foreign minister and minister for infrastructure.

The Nigerian scenario however seems somewhat different from the countries highlighted above. This is so for several reasons. Firstly, Nigeria has a well-educated and vibrant civil society that cannot be said to be docile in any way. Secondly, the issue of sit-tight leaders in Nigeria has never materialized, as the longest regime was that of General Gowon who was in charge for nine years, including three years of the civil war. Thirdly, the opposition in Nigeria always gives any government in power a run for their money even in the midst of governmental oppression.<sup>107</sup> The incidence of official corruption (to be discussed in full later) has however been endemic in the body polity. However, apart from corruption, what could be said to be responsible for the fact that Nigeria has never enjoyed any sustained democratic governance, and here we are talking specifically about the second republic?

At no risk of an overstatement, we can comfortably say that African countries have tried so hard to create lasting democratic systems, but that Nigeria is one of those that have paid a huge price in doing so and that success still has been elusive.<sup>108</sup> Some people might make reference to South Africa, where decades of blood shed was endured by the black majority before democratic governance was finally introduced.<sup>109</sup> But in our opinion, the South African situation is quite different from what we have in Nigeria. This is because the Nigerian situation is a case of several truncated democratic experiments, while South Africa has remained democratic since it was achieved in 1992.

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<sup>107</sup> Mention must be made here of the vibrant opposition in Zimbabwe that is battling the dictatorial tendencies of President Robert Mugabe.

<sup>108</sup> P.A. Becket and C. Young, eds., Dilemmas of Democracy in Nigeria, (Rochester: University of Rochester Press, 1997) at 14.

<sup>109</sup> South Africans had battled the apartheid system for decades before finally gaining independence and the right to multi-party elections in the early 1990s.

In the Nigerian scenario, political transitions to democracy under the auspices of a series of authoritarian military governments have been usually prolonged but ultimately lacking in any concrete outcome.<sup>110</sup> These experiments which came with the squandering of large sums of national resources, added to the innumerable number of lives and properties usually lost to political violence and thuggery over these years. Other incidental costs pertain to the intricate and delicate relations between the different ethnic groups in the country, and the effects of such destabilizing incidents on the international relations of the country with the outside world which cannot be quantified.<sup>111</sup>

The general tendency among Nigerian politicians has always been to blame the military establishment for not allowing the politicians to play politics and “learn from their mistakes.” This accusation is not altogether unfounded, that is, if one considers that the military were in power in Nigeria for about thirty of the forty years of Nigeria’s independence. Also, two “full-fledged” democratic administrations in Nigeria have been terminated by military coups since independence in 1960. However, it might be too simplistic to put the whole blame on the military and nothing more. The conduct of the politicians themselves usually leaves much to be desired and that gives the military ready excuses to take overpower.<sup>112</sup>

The second republic in Nigeria suffered from these peculiar problems. A critical reading of Nigeria’s political history will reveal that the elected governments were usually in the “throes of

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<sup>110</sup> The Babangida regime alone organized several elections from 1985 to 1992 with no concrete outcome and the nation was plunged into chaos with the annulment of the results of the June 12 1993 general elections.

<sup>111</sup> *ibid.*

<sup>112</sup> Even now in the fourth republic, some people are already calling on the military to take over power since the politicians do not seem to have learnt anything from the past and have adopted all the negatives things that had truncated the previous democratic experiments.

shadow of death” almost from their inauguration, while the state had virtually collapsed by the time of any general elections.<sup>113</sup> In the scenario described above, the different military coups in Nigeria had become a form of “euthanasia” for the different civilian regimes.<sup>114</sup> In virtually all the cases of breakdown and overthrow of civilian governments in Nigeria, there existed a repeated pattern of transition from democracy marked by depluralization, state appropriation, delegitimation of regimes, inter-and intra group and tribal conflicts and finally military coups.<sup>115</sup> Delegitimation of the authority of a regime implies the decline in the confidence and trust which the general citizenry have in the government and in the leaders.<sup>116</sup> The prevalent argument for this trend has been that it is a consequence of the peculiar political and inter-group environment of Nigeria and the character of the Nigerian state. The peculiar character of the state is premised on filial and ethnic cleavages, which even if not manifested by those purporting to be nationalists, are still deep-rooted in the psyche of the average citizen, especially when the person’s interest is threatened on the national level. Therefore, every present, and predictably future democratic administration is susceptible to the same described trajectory,<sup>117</sup> even as past experiences have shown that life under military regimes has been nothing but perennial nightmares for Nigeria. It is incidental to note that the trajectories described above are presently occurring with “eye popping exactitude” in the present civilian regime; which portends ominous signals that the present democratic experiment is somewhat destined for annihilation like those of the past.

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<sup>113</sup> Ehimika Ifidon, “Transitions from Democracy in Nigeria: Towards a Pre-emptive Analysis”, *African Journal of Political Science*, Vol. 7 No. 1 June 2002 (Abstract).

<sup>114</sup> *ibid*

<sup>115</sup> *ibid*

<sup>116</sup> M. Crozier, S.P. Huntington and J. Watanuki, *The Crises of Democracy: Report on the Governability of Democracies to the Trilateral Commission* (New York: New York University Press, 1975) at 161.

The Second republic civilian government was born in 1979. It started on a lethargic note because the then President, Alhaji Shehu Shagari, was very reluctant to be the leader and was pressurized by some power blocs to do so as a compromise candidate. Although Shagari did serve in some government positions since the 1960's; he appeared to be ill-equipped for the responsibilities of the office of the President. It then appeared to have been a case of domino effect of mis-governance and misrule from the center to the states and the climax was the 1983 general elections when the ruling party, the national party of Nigeria (NPN) in its bid to ensure the so-called "landslide victory" ended up bringing the military back to power by the large-scale rigging and other events that followed the elections.

The attempt by the ruling party in Nigeria to cling to [power at all costs was not surprising because in most parts of Africa, the loss of elections by ruling parties is not a recognized norm. For instance, in Kenya, The KANU party had ruled for nearly thirty years until the incumbent President Arap Moi was prevented by the constitution of Kenya from re-contesting in December 2002 after 24 years in power. In Gabon, the ruling party of the President Omar Bongo, Gabonese Democratic Party (PGD) has been in power since 1967 and is still in power. Also, in Togo, the Rally of Togolese People (RTP) of the incumbent President Gyasimbe Eyadema has been in power for thirty-five years and is still in power. In essence, the use of the power of incumbency by political parties in Africa has been one of the most intractable problems that face democratic experiments in most of the countries. This has also been one of the recipes for the return of military regimes to power in some countries where the President have not "pocketed" the military as in Togo and Gabon. It was therefore not surprising, so to say, that the military staged a coup to overthrow the civilian government of the second republic in Nigeria after the 1983

general elections. However, there were other cumulative factors that added up to the events that overthrew the democratic experiment and some of them would be addressed below.

## **2.2 The Coup Of 1983**

On the late night of 31<sup>st</sup> December 1983 into the early morning of 1<sup>st</sup> January 1984, a military coup was being announced over the national network radio and the second experiment at development governance had gone up in smoke. One general Sani Abacha was addressing the nation and the international community and was cataloguing the ills of the dethroned civilian regime and politicians. The coup was not really much of a surprise to many people, as it had been called for by many people who believed that the general election of 1983 was nothing but a charade and a naked show of the power of incumbency by those in power at the centre. The surprising thing however was the timing of the coup, which was three months after the civilians had assumed power for their respective second terms in office and when the perceived injustices from the elections had been partially forgotten by some losers in the elections.

Even as the military gave obvious reasons for taking over powers from the politicians, events of latter years have thrown-up serious doubts against the often altruistic propagation of the military establishments in their earlier takeovers of government. For instance, in their coup speech of 1983, the soldiers responsible for the coup had reeled out their anger to the attentive Nigerian public thus:

“Fellow countrymen and women. You are all living witnesses to the great economic predicament which an inept and corrupt leadership has imposed on our beloved nation in the past four years. I am referring to the harsh, intolerable conditions under which we are now living. Our economy has been hopelessly mis-managed, we have become a debtor and beggar nation. There is inadequacy of food at reasonable prices for our people who are now fed up with endless announcements of importation of foodstuffs. Health services are in shambles as our hospitals are reduced to mere consulting clinics without drugs, water and equipment. Our educational system is deteriorating at an alarming rate. Unemployment figures including undergraduates have reached embarrassing and unacceptable proportions. In some states, workers are being owed salary arrears of eight to twelve months, and in others, there are threats of salary cuts. Yet our leaders revel in squandermania, corruption and indiscipline and continue to proliferate public appointments in complete disregard to stark economic realities.”<sup>118</sup>

The point is not whether the reasons given by the announcer of the coup were germane, because they were substantially so. The real irony is that when the same coup announcer General Abacha became the Nigerian Head of State between 1993 and 1998, he then presided over what has remained arguably the most brutal, repressive, inept and corruption ridden government in the history of Nigeria since the colonial times.

We recall that Cohen attributed successful democracy to the “range of democracy” which implies the manner in which the people are ready to partake in the democratic experiments. That

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<sup>118</sup> See [www.dawodu.com](http://www.dawodu.com)

is not a problem in Nigeria as the people are always ready to participate in democratic processes. However, one of the real problems of politics in Nigeria and which led to the truncation of the second republic is the “winner takes all” brand of politics that was being played and is still being played by the politicians. In some other countries like Israel and Turkey, it has been possible to have alliances by political parties working together to form coalition governments, but such alliances were woeful failures in the Nigerian context. Even before the general elections of 1983, the major opposition parties, comprising the Unity Party of Nigeria (UPN) the Nigerian Peoples Party (NPP) the Great Nigerian Peoples Party (GNPP) and the Nigerian Advanced Party (NAP) had all agreed to form an alliance called the Progressive Parties Alliance (PPA) to challenge the incumbent powers of the ruling party, the National Party of Nigeria (NPN). The alliance grew very strong in most parts of the country during the campaign period but collapsed just before the elections over the choice of the presidential candidate. None of the leading candidates of the alliance wanted to be the vice-presidential candidate and that gave the baton back to the ruling party virtually with ease.

The other problem with the previous experiments at alliances in the Nigerian political landscape has been that after power might have been secured; the senior member of the alliance will always attempt to marginalize the other alliance members and therefore leading to a collapse of the alliance. For instance after the 1979 elections and in trying to assuage the grievances of the opposition, the NPN had entered into an alliance at the federal level with the NPP and appointed some members of the NPP as federal ministers. However, when it was obvious that those appointed from the NPP were not enjoying the best of terms in the federal government, they were ordered by their party to resign their appointments; which they did, and the alliance

collapsed. The collapse of this alliance was a reminder of the “winner takes all” type of politics that makes compromise very difficult among Nigerian politicians. That has been one of the main reasons why during every general elections, the parties that lost the elections, instead of supporting the winning party, usually allege election rigging and malpractices and even go to the extent of calling on the military to intervene and take over power instead of allowing the other party to claim victory and for the government.

According Linz and Stepan, for democracies to be consolidated, constitutional regimes would have governmental and non-governmental forces throughout the country becoming subjected to the habit of resolving their conflicts within the specific laws and regulations as were put in place by the democratic process. If we are to adopt this in looking at the Nigerian scenario, then politicians who call on the military to intervene and take over power must be acting outside the democratic tenets. It is therefore ironic that politicians who should be doing everything to preserve the democratic legacy that they should consolidate are oftentimes those that usually call on the military to intervene and take over power. The main reason is that once you lose an election in Nigeria, and by extension in most of Africa, you have lost all. This is because the opposition is always regarded as the “devil” in the house. Therefore, it has become a case of “if we cant it, let it break” and everyone loses.

The next incident of the “winner takes all” politics is political violence. In trying to win at all cost, most politicians induce or engage in political thuggery and assassination of their political opponents. Since the 1964 general elections which were characterized by large scale violence

and which contributed to the fall of the first republic, there has been tremendous level of violence in every general election in Nigeria except the June 1993 general elections. Ironically that election in 1993, widely seen and the freest and fairest election in Nigerian history was annulled by the military Head of State General Babangida, which event threw Nigeria into civil strife and instability for many years. The incident of election annulment by the government in power has left some other countries in Africa in near total ruins. For instance, in 1991 in Algeria, the government cancelled an election that was widely believed to be going to the favour of the Fundamentalist Islamic Salvation Front (FIS) and since then Algeria has never known peace. Member of the FIS have engaged the government in war of attrition and have also kidnapped and murdered foreign tourists and diplomats. Suicide bombers have also killed many government officials in Algeria since the 1991 election cancellation. Although there appears to be recent truce between the Algerian government and the FIS, innumerable damage has been done to the country's international image and economy.<sup>119</sup>

In all of the above, what many people do not support is the mode that the opposition like the FIS adopts to make its case, that is, by killing innocent civilians. Having said that, it has also been generally condemned that incumbent governments in Algeria or elsewhere in Africa do not have the right to nullify elections which are supposed to be the manifestation of what Alexis De Tocqueville called the principle of "sovereignty of the people."<sup>120</sup> This is the principle that states that in every strong democratic state, (here exemplified by the United States) all human institutions are embedded with the "sovereignty of the people" which makes them to be obeyed

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<sup>119</sup> The targetting of international tourists by the FIS has led to the decline of tourism in the country and fall in national revenue.

<sup>120</sup> Alexis De Tocqueville, Democracy in America, (Revised and Corrected Edition) (New York: Vintage Books, 11945) at 57.

without sometimes being recognized. It presupposes therefore that in states where the electoral processes are not allowed to take their natural and un-manipulated course, that the “sovereignty of the people” would not be able to take root in those states.

### **2.3 Colonial Hangover**

Nigeria, like most countries in Africa was colonized by a European power, Britain. Therefore, the systems of political and public administration including public management that Nigeria adopted after independence were modeled along the British tradition. However, it has been argued in some quarters that the seeming inherent instability in the Nigerian political landscape, the underdeveloped economic system, corruption and other present day vices must be traceable to colonial inheritance.

The reason for the above line of thinking is that the sixty years of British rule in Nigeria had left the country with a fragile political system and an almost perpetual neocolonial economy.<sup>121</sup> In the same way, it has been argued that the Nigerian First Republic (1960-1966) did collapse mainly because of the same reason of colonial inheritance. This was because there was the very aggressive rivalry among the Nigerian elite at the time in the tussle to succeed the departing British technocrats. The tussle was intensified because of the ethnic cleavages that existed and still exists within the Nigerian polity and further aggravated by the consideration of government and in-fact public positions as places for personal aggrandizement. This also explains the high

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<sup>121</sup> Toyin Falola and Julius Ihonvbere, The Rise and Fall of Nigeria's Second Republic: 1979-1984, (London: Zed Books, 1985) at 18.

incidence of corruption in public offices that was witnessed among the politicians of the 1960's.<sup>122</sup>

The allusion being made to colonial heritage as part of the Nigerian problem in democratization stems from the fact that there is a contention that what Nigeria operates today as a federal system of government, and which was inherited from the British in 1960 is such that the states (regions at the time) were more powerful than the center, and the elite and the political parties were all regionally based.<sup>123</sup> This created a heated atmosphere of distrust and tension among the elite from the different regions. For instance, in the 1960s, the Eastern region had the National Council of Nigerian Citizens, (NCNC), the Western region had the Action Group (AG) and the Northern region had the Northern Peoples Congress (NPC) as the major political parties of the First republic. In all, this scenario led to a situation whereby all the regions at the time had conflicting and competing development plans and distrusted one another generally, although there were common interests shared by all the regions together like the area of national defence.<sup>124</sup>

The Second republic was meant to correct some of the “ills” of the regional arrangements and in so doing it is believe that too much powers were then concentrated in the federal government to the detriment of the states. The 1979 Constitution of Nigeria which ushered in the Second republic seemed to have entrenched so much powers to the centre and thereby making the fight

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<sup>122</sup> We must note that corruption was one of the allegations that the first military coupists leveled against key politicians after the attempted take over of government on January 1, 1966.

<sup>123</sup> Nigeria has since abandoned the parliamentary system of government which it inherited from Britain and now practices the presidential system.

<sup>124</sup> See generally R. L. Sklar, Nigerian Political Parties: Power in an Emergent African Nation, (New Jersey: Princeton University Press, 1963.)

for presidential elections a “do or die” affair for the political class. In essence, the 1979 constitution was a total contrast to what was operated after independence in 1960. This latter situation led some commentators to call for a reversal of the constitution to the Independence Constitution that gave a lot of autonomy to the regions, although such a call seems belated. This is because in 1967, the regions had been dissolved and out of them were created twelve states.<sup>125</sup> The states as it were did not enjoy the same measure of autonomy that the regions enjoyed, although all the ills that bugged down the era of regionalism were all apparent under the states system. In essence, it could be said that the colonial heritage that made for the regions and which was to be corrected by the creation of states was not really corrected as the creation of states turned out in the final analysis to have some cosmetic exercise, except maybe that in some areas it has helped grass root development .

The final reason for the truncation of the second republic was what some writers have labelled the “rigidity” of the Presidential system of government. The rigidity being talked about here pertains to the fact that the President and the governors and in-fact all the elected officials are elected for a period of time, which under normal circumstances cannot be modified or abrogated until the next election. Thus, even if shortly after the election, the electorates felt that they had made a mistake in electing the particular candidate, they had to wait till another election to vote out the candidate<sup>126</sup>. The political process therefore is broken into discontinuous rigidly determined periods without the possibility of continuous readjustment as political, economic and

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<sup>125</sup> There are now thirty six states in the federation following successive states created by the military.

<sup>126</sup> Theoretically, there are provisions for the recall of candidates by the electorates, but in most third world countries it is virtually impossible to be able to recall a candidate except where the government in power manipulates all the indices to do so.

social events might require along the line.<sup>127</sup> The duration of the tenure of the President, and in fact, of the other elected officials then becomes an essential political factor to which all other actors in the political process have to adjust, especially the opposition keen on taking over power from the incumbents.<sup>128</sup> Like already pointed out, although the legislators could be recalled by their constituencies under some circumstances, but the unenlightened nature of the third world politics do not allow for that to happen at all. What then does this situation entail? Nothing but a violent overthrow of Presidential democracies, and in third world countries, this has been through successive *coup d'etats*.

This is unlike the parliamentary system of government where the party in power or the parliament could pass a “vote of no confidence” on the Prime Minister and the government would be called upon to resign and call new elections. There is a large measure of flexibility inherent in the parliamentary system of government. However, it can be argued that the rigidity of the Presidential system of government more often than not ensures stability in the government administration, unlike the parliamentary system where major realignments within the tenure of the incumbent government might lead to the collapse of the government and thereby introduce instability.

## **2.4 Return to Democracy in 1999**

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<sup>127</sup> J.J. Linz and A. Valenzuela, eds., The Failure of Presidential Democracy, (Baltimore and London: The John Hopkins University Press, 1994) at 8.

<sup>128</sup> *ibid*

The period between 1983 and 1999 has been described as the “years of the locust” for Nigeria.<sup>129</sup> In essence, the period in question marked a period of despair for democratization as hopes were lost due to the perceived insincerity of the military regime of general Babangida who was the Head of State from 1985 to 1993. During the course of the period, several transition programmes were tried and abandoned while several billions of Naira (the local currency) were squandered in putting together these half hearted political transition programmes. The end results were as expected: empty. General Babangida, as was pointed out earlier, was succeeded by General Abacha who employed the instruments of terror and oppression to rule for five tumultuous years ending with his sudden death under controversial circumstances in 1998.<sup>130</sup> With the death of Abacha in 1998, General Abubakar assumed the mantle of leadership and was quick to hand over power to a civilian President. The person who became President, Olusegun Obasanjo, however was Nigeria’s former military Head of State from 1976 to 1979.<sup>131</sup>

Was the 1998 handover of power a completed transition? In Nigeria many people thought it was. That is, was there sufficient agreement reached about political procedures to produce an elected government for Nigeria in 1999? It does appear that there was. This was because the Nigerian citizenry were tired of the almost unending hegemony of the military and would prefer a change in the political structure to usher in a civilian regime, even if with some inconsistencies. The second question that will determine whether there was a completed transition in 1999 is whether the government that came to power after the elections was as a result of free and popular vote of

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<sup>129</sup> Within the period there were more than seven coups in Nigeria, some of them successful, others disastrous for the plotters. There was also several annulled elections and wastages of several billions of dollars in conducting the botched elections.

<sup>130</sup> There are divergent accounts as to how the Head of State died, although the popular unofficial story was that he was having fun with a group of Indian ladies when he collapsed and died. This could not officially be confirmed by the federal government who only admitted that he died of a heart attack.

<sup>131</sup> See generally D. Williams, President and Power in Nigeria: The Life of Shehu Shagari, (London: Frank Cass Company, 1982).

the Nigerian people? The answer is no. The only election that has been adjudged free and fair and as being the result of the popular will of Nigerian people in recent decades was the 1993 general elections whose results were nullified by the military regime of General Babangida. The government that organized the 1999 elections on the other hand was severally accused of manipulating the electoral process to favour the candidature of General Obasanjo (retired) who at the time appeared to be the only person from the South that the Northern military officers could trust enough in order to hand over power to him. Many years after the elections therefore, allegations of manipulation of the electoral process by the then federal government to favour Obasanjo still re-echoes. In essence, the electoral processes that culminated to the 1999 transition to civil rule were not seen to be fair by a large generality of Nigerians.

It would be fair to say at this point that the 1999 democratic transition in Nigeria cannot be described as a completed transition. This is because one of the basic ingredients of completed transition as identified by Linz and Stepan, which is the confirmation of the electoral process of voting as being free and fair was lacking in the 1999 elections. By necessary extension, the question of whether the same electoral process did lead to democratic consolidation in Nigeria does not arise since we have concluded that there was not completed transition in the first place. This is because there must have been a completed democratic transition before we could have a consolidated democratic regime. However, it should be pointed out that consolidated democratic regime is not an automatic result from completed democratic transitions. In essence, according to Linz and Stepan, there are further conditions that must be established, and attitudes and habits that must be cultivated before a fully transitioned democracy could be considered consolidated.<sup>132</sup>

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<sup>132</sup> J.J. Linz and A. Stepan, Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe, (Baltimore and London: The John Hopkins University Press, 1996) at 5.

One of the major conditions is that democracy must in the polity in question, be the “only game in town”. This means that no significant political group tries to overthrow the democratic regime or secede from the state in question<sup>133</sup>. Furthermore, democracy will be the “only game in town” when even in the face of severe political and economic crises, the overwhelming majority of the people believe that any further political change must emerge within the parameters of democratic formula. Added to that, the political actors in the polity must be habituated to the fact that political conflicts will be resolved according to the dictates of established norms and that violations of these norms are likely to be both ineffective and costly. In essence, democracy once consolidated becomes routinized and deeply internalized in every of the social, institutional and psychological life, as well as in calculations for achieving success with the state(s) concerned.<sup>134</sup>

The matter of democratic consolidation of course does not end there as has been stated. There are other indices which are called “arenas” in a consolidated democratic set-up. These “arenas” are sets of separate but mutually interacting conditions which re-enforce one another in order that democratic consolidation could exist.<sup>135</sup> First of these conditions is the existence of a virile and free civil society. The existence of civil society here is to facilitate the articulation and dissemination of alternative viewpoints that might be different from those that emanate from the propaganda machinery of the respective incumbent governments. In Nigeria, through the successive years, there emerged the Campaign for Democracy (CD) the Democratic Alternative (DA), the National Democratic Coalition (NADECO), the Civil Liberties Organization (CLO) among others that confronted the several military dictatorships in Nigeria and fought for the enthronement of democratic governance. The next arena is the existence of a relatively

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<sup>133</sup> *ibid*

<sup>134</sup> *ibid*

<sup>135</sup> *ibid*

autonomous and valued political society which will enable the polity to arrange itself to contest legitimate rights to exercise control over public power and the state apparatus.<sup>136</sup> Then there must be the existence of the rule of law, which will guarantee the rights of the citizens in their exercise of their fundamental liberties.<sup>137</sup> This implies that the courts system must be fully independent of the other arms of government, failing which there will be the tele-guiding of the Judges and the judiciary would not be in a position to effectively guarantee citizens' rights. Added to the above, there should also be availability of a functional state bureaucracy which the democratic government should use to carry out the state duties as is required under such regimes. Finally there should exist an institutionalized economic society. This presupposes the existence of some set of socio-politically crafted and accepted norms, institutions and regulations that mediates between the state and the market. This is based on the assumption that neither a full command economy nor a full market economy would augur well for the purposes of consolidating democracies.<sup>138</sup> That makes it trite that even some of the economies that profess to be market economies do have some measure of regulation, especially in the area like health care, immigration and national defence.

Having considered all of the above, it might be correct to say that it does appear that the conditions for democratic consolidation do exist in Nigeria but have not been nurtured and developed. The reason for their non-development is clear and can be summarized as follows: the first is that the process of democratic transition has not been enjoyed for a reasonable longer time after the First republic from 1960 to 1966 in order to allow the conditions necessary for democratic consolidation to crystallize and be internalized. Secondly, the ever willingness of the

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<sup>136</sup> *ibid*

<sup>137</sup> *ibid*

<sup>138</sup> *ibid*

military to intervene and truncate democratic regimes at any slightest provocation is a reason that makes the politicians to grab as much as they can before they lose power. This has been the bane of the present experiment at democratic governance that started in 1999.

## **Chapter Three**

### **3. Politics, Religion and Ethnicity in Nigeria**

Demographically, Nigeria is a very large, diverse and complicated country in many respects<sup>139</sup>. There are more than two hundred and fifty ethnic groups in Nigeria, each having its own language or dialects<sup>140</sup>. There are also several different types of religions, with Christianity and Islam being the dominant ones.<sup>141</sup> There are also traditional worshippers in sizeable numbers. There are in addition to all of these, different cultural affiliations by several of these groups, some of the cultures do have some semblance to others, while some do not. This being the case, the founders of the Nigerian state knew that religion and ethnicity were issues that could be very

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<sup>139</sup> This complexity, which is also shared by other African countries, is attributed to the way and manner in which the European colonists divided up the African continent without any regard to the culture and traditions of the indigenous peoples.

<sup>140</sup> Note that some of these dialects are similar while others are very distinct and could not be understood by a non-indigene.

<sup>141</sup> It is estimated that about forty percent of the population are Christians while another forty percent are Muslims and the remainder is shared by the traditional worshippers and other minor religions.

volatile to the emerging republic and promptly excluded them as pivotal factors in national leadership. But that is only in principle, as there are obvious leanings by some people during elections to the candidates of their own faith.

### **3.1 Religion in Politics<sup>142</sup>**

Constitutionally, Nigeria is called a secular state where everyone is permitted to freely practice his or her religious inclination without let or hindrance. This is because section 10 of the 1999 Constitution expressly forbids any state within the federation or the federal government from adopting any particular religion as a state religion.<sup>143</sup> The freedom of religion and worship is also guaranteed to everyone under section 38(1) of the constitution. Furthermore, the manner of worship or of dissemination of religious information is not regulated by the Constitution as long as the method(s) adopted does not constitute intolerable nuisance to the right of others. There is religious freedom in that there are attempts to regulate the propagation of religious activities in public places like buses, airplanes, trains and like places to avoid any potential conflict between adherents of different religions which might injure the sensibilities of general public.<sup>144</sup> However, as time went on, the water-tight separation between religion and state in Nigeria was watered down by successive governments. The outcome has been several religious riots in several part of

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<sup>142</sup> See generally A. Dondeyne, Faith and the World (Pittsburgh: Duquesne University Press, 1965).

<sup>143</sup> This provision has not stopped some states in the Northern part of Nigeria from introducing the Sharia system of law in those states. In essence, the Sharia system now runs concurrently with the Penal Code in some states of the North. Reactions to this development have been based largely on religious divides, because while most Christians feel that such move infringes on the Constitutional provision against state religion, most Muslims do not find anything wrong with the Sharia introduction.

<sup>144</sup> This has not meant that in the past that some religious fanatics do not attempt to preach in such prohibited places, except when such moves were stopped by the officers in charge of these places.

the country, especially the Northern parts where Islam holds sway.<sup>145</sup> In essence, the fear that the founding fathers of Nigeria had in trying to separate the state from religious duties has been vindicated as it appears that the issue is getting out of hand with each passing regime<sup>146</sup>. It must be noted however that Nigeria is not alone in trying to battle the romance between the state and religion. We now intend to consider the situation in the United States on this subject.

### **3.1.1 The United States Experience**

The United States when compared with Nigeria is a much older and stable democracy and one of the most stable around the world having fought its war of independence in 1776. Their experience in issues like this therefore counts. We should note that in the United States also, efforts have been made to keep religion out of the realm of the state leadership.

The classic example of this, for instance, is in the First Amendment to the United States Constitution which provide that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances”.<sup>147</sup> The interpretation of this clause has given rise to hundreds of cases

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<sup>145</sup> There have been allegations several times in the past that high ranking politicians are usually complicit in the religious riots that had engulfed Nigeria in the past. These allegations have not been properly investigated by the government as the investigations are abandoned half-way once life seems to have returned to normal in the affected places.

<sup>146</sup> Another festering area between critics and the government of most states and the federation is the attitude where respective government have contributed to pilgrims going to Mecca and Jerusalem for annual pilgrimage. It was obvious that the government uses that as a political patronage in some cases and in some cases as an image laundering tactic.

<sup>147</sup> This has also created the problem of interpretation in some areas and issues for the U.S. government. For instance, the recent debate about whether the U.S. government could give money to charities that are run by religious

where the courts had to decide whether this provision of the constitution was violated by a certain act of the government or the other.

In the United States however, the explication of the “no religion and politics” provisions by the scholars has followed a restrictive interpretation. Those who believe that piety, religion, and morality are intimately connected with the well being of the state do not seem to have any problem with having the government interfere in religious issues within the polity. However, others seem to consider the prohibition simply as a means of maintaining the secularity and dynamic nature of the United States as was envisaged by its founding fathers. It has been argued in some quarters that probably at the time of the adoption of the United States’ Constitution and the First Amendment the general, if not the universal sentiment in America, was that Christianity ought to receive encouragement from the U.S. government. An attempt to level all religions and to make it a matter of state policy to hold all in utter indifference by the state was considered unfair to the interest of the majority Christians in the U.S.

This line of reasoning has been rendered redundant by subsequent decisions of various courts of law in the United State. For instance, in one of the first cases on the subject, that is *Everson v. Board of Education*, in which the Court without dissent on this point, declared that the “Establishment Clause” forbids not only practices that "aid one religion" or "prefer one religion over another," but as well those that "aid all religions." Recent seeming resurgence of the argument that religion clauses, principally the “Establishment Clause” prohibits "preferential" governmental promotion of some religions, allowing general governmental promotion of all

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organizations also comes to mind. While the U.S. government thinks that such money should be given, many members of the U.S. Congress do not think so.

religion in general has proved unsuccessful. This is because the courts have considered that any contrary interpretation of that “religion clause” which seems to undermine the intent and purposes of the framers of the United States Constitution would be a recipe for chaos. For instance, in 1802, President Jefferson wrote a letter to a group of Baptists in Danbury, Connecticut, in which he declared that it was the purpose of the First Amendment to build "a wall of separation between Church and State." *In Reynolds v. United States*, Chief Justice Waite, writing for the Court characterized the phrase as "almost an authoritative declaration of the scope and effect of the amendment."

Finally on this subject, the First Amendment also requires the United States government to remain neutral even when cases of disputes arise between factions of different churches. The Constitution allows the courts in the U.S. to settle such disputes based on simple rules of court and nothing more. Therefore, one value that the clause on religion serves is to enforce governmental neutrality in deciding controversies arising out of religious disputes. Problems do sometimes develop within churches or between a local church and the parent church resulting in secession or expulsion of one faction or of the local church. A dispute over which body is to have control of the property of the church will then often be taken to the courts. It is now established that the religion clause prevents governmental inquiry into religious doctrines in settling such disputes, and instead require the courts simply to look to the decision-making body or process in the church and to give their decisions based on that.<sup>148</sup>

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<sup>148</sup> It must be emphasized that the separation of the church and the state or religion and the state is not as easy as it sounds. For instance, even with the First Amendment in place the former U.S. President Ronald Reagan still proclaimed in 1983 to declare that year “The Year of the Bible” because “of the many influences that have shaped the United States of America into a distinctive nation and people, none may be said to be more fundamental and enduring than the Bible.” Therefore, “the Congress of the United States, in recognition of the unique contribution of the Bible in shaping the history and character of this nation, and so many of its citizens, has by Senate Joint Resolution 165 authorized and requested the President to designate the year 1983 as the “Year of the Bible”. See

### 3.1.2 The Nigerian Experience

As was pointed out above, section 10 of the Nigerian Federal Constitution 1999 provides explicitly that: “The Government of the Federation or of a State shall not adopt any religion as State Religion.” But what does this provision of the constitution imply? It does appear that the answer would depend on the area of divide that once finds himself in the debate about the involvement of state in religious affairs.

The situation in Nigeria has become very volatile, and the reason is very simple. Religion as a subject is one of the hardest subject in contemporary social discourse to approach objectively. By its nature, it dwells and thrives on emotions and inner susceptibilities of the adherents. Furthermore, it is a well known aphorism that where emotion holds sway, reason is held captive or rather subdued in order to put across the point of view of the person concerned. In this wise therefore, arguments about the place of religion in governmental affairs tend to be unending and unnecessarily vexatious and most of the time frustratingly sensitive. Religion is the "opium of the people,"<sup>149</sup> according to Karl Max, because religion rules the heart and according to Marx, religion is the subject of manipulation of the masses by those who really understand the impact

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proclamation 5018 of February 3, 1983 in United States Statutes at Large 98<sup>th</sup> Congress, 1<sup>st</sup> Session 1983, vol. 97 STAT.1545.

<sup>149</sup> See M. Bourdeaux, Opium of the People: The Christian Religion in the U.S.S.R. (London: Mowbrays, 1965).

of religion on the psyche of the people. He wrote that: “religion is the sigh of the oppressed creature, the heart of a heartless world, just as it is the spirit of an unspiritual situation. It is the opium of the people.”<sup>150</sup> One should bear in mind the fact that religion in Nigeria follows closely the geographical and ethnic divisions in the country. For instance, the Northern part of Nigeria, which is also the home to most of the country’s military rulers for the more than 30years of military rule, is predominantly of Islamic faith, while the Southern part of Nigeria is predominantly of Christian faith.

Returning to Marx, it could be suggested that he was apparently very concerned about the effect of religion on the masses of his time. This is because according to him, religion admits little, if any, of the spirit of inquiry or proof, while pushing adherents to certain unimaginable limits. Marx argues that religion has the tendency of urging the heart to rule the head of its adherents, and therefore many men, who should otherwise be rational in nature, were often willing to suffer or even die in defense of their faith.<sup>151</sup>

There have been some serious issues in Nigeria’s political history that brought the issue of religion in politics to the front burner. The first issue, as was alluded to above, is the practice of state and federal governments sponsoring and assisting some citizens to undertake pilgrimages to Mecca (for the Moslems) and to Jerusalem (for the Christians). The practice was started by military regimes that sought a form of pacification of the populace for their illegitimate take over of power, and the civilian governments have been under tremendous pressure from the pilgrims

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<sup>150</sup> K. Marx, “Towards the Critique of Hegel’s Philosophy of Right”, in L.S. Feuer, ed., Marx and Engels Basic Writings on Politics and Philosophy (New York: Double Day and Company, 1959) at 263.

<sup>151</sup> See generally for example R. Whiting, The Blind Devotion of the People: Popular Religion and the English Reformation (Cambridge: Cambridge University Press, 1989).

and have continued the practice. It is felt in some quarters that pilgrimage being a personal choosing of the pilgrims, that the government (state of federal) should have no business therein.

The second issue was the subtle assumption of the membership of the Organization of Islamic Conference (OIC) by Nigeria in 1986 under the regime of General Babangida by some kind of deception.<sup>152</sup> The OIC is said to be an international organization grouping of fifty-six States which have decided to pool their resources together, combine their efforts and speak with one voice to safeguard the interests and secure the progress and well-being of their peoples and of all Muslims in the world.<sup>153</sup> The Organization was established in Rabat, Kingdom of Morocco, on the September 1969 when the First meeting of the leaders of the Islamic world was held. When protests erupted about the issue, General Babangida told Nigerians that Nigeria was only an observer and not a full member of the organization, but that turned out to be an understatement of the full facts. But why should a country that has equal number of Moslems and Christians choose to join an association meant for Islamic countries? It can only be described as the arrogant usage of naked power by the military establishment. Over the years, the Moslems in the country have used Nigerian membership of OIC to insinuate that Nigeria is an Islamic country, but that was a recipe for trouble which was to come, and did come with attendant loss of lives and property.<sup>154</sup>

The third issue was the introduction of Sharia law by the Northern state of Zamfara and the subsequent introduction of the same legal system by other Northern states to govern .relations

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<sup>152</sup> For further details about the OIC and its membership and activities, see: [www.oic-oci.org](http://www.oic-oci.org)

<sup>153</sup> *ibid*

<sup>154</sup> Throughout the decades of the 1990s, there too many religious riots in Nigeria to be counted, and virtually all of them happening in the Muslim dominated areas of Nigeria.

(between Muslims as declared) in those states. History testifies to the unending rivalry or problems created by religion in this century all over the world.<sup>155</sup> History has a way of repeating itself, as demonstrated by the Sharia issue in the Nigerian political arena. Religious tolerance has been preached repeatedly in the country, but as a matter of fact tolerance is an abstract concept that is difficult to define. Tolerance is not only needed to avoid politico-religious disaster in Nigerian, but also needed in abundance. Unfortunately, extremism has no room for tolerance. And what has been done in Zamfara state has been described variously extremism and the federal government played politics with the issue in order not to lose the votes of Northerners. The situation has therefore festered and continued to get worse and more so. The question remains: why should the governments of those states declare Sharia law in states where non-Moslems are in very large numbers? Only they (states) and the federal government that did nothing to stop that could answer.

It is not in dispute that religion is essentially and primarily an individual affair. Although some may argue that religion is a communal affair. However, it might be asserted also that it is only in religious extremism that domination, discrimination and persecution is practiced as a norm. Nonetheless, it is an open fact that the ethics of most religions (at least Christianity, Buddhism, Hinduism and Islam) demand love, peace, justice, and tolerance of other people and religions. However, in the quest for personal political gains, individual religious leaders and a handful of politicians in Nigeria have exploited the underprivileged masses to distort the various religious

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<sup>155</sup> It is of note that religious problems is ravaging India between the Hindus and the Moslems, between the Jews and the Muslims in the Middle East, and between the Catholics and Protestants Red Order (both Christians) in Northern Ireland just to mention a few.

teachings and use same to destabilize the polity<sup>156</sup>. In effect, the ruling elite used religious sentiments to polarize the people and created unnecessary and unhealthy tension. That was what Karl Marx was afraid of. The irony is that unlike in the United States where either the government or the individuals took the matter to court for resolution; in Nigeria, while individuals were intimidated by death threats from taking the issue of Sharia introduction to court, the federal government also reneged on its responsibility to do so because of the presumed political repercussions.

In nutshell, one comes to realize that the Nigerian state has not been able, for various reasons as highlighted above, to make much distinction between politics and religion. Even Christianity, which seemed to be aloof from the political process all along, is now gradually getting involved.<sup>157</sup> However, Nigerian experience has indicated that the political leadership is incapable of keeping religion and politics completely apart. In this religious quagmire that the respective Nigerian governments find themselves, it has become politically unwise to displease strong religious caucuses or denominations in the country. The grave concern among many people is that religious disharmony may prove to be the greatest stumbling block to Nigeria's unity and development. Nonetheless, the slow pace of Government action to curtail the uprising might

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<sup>156</sup> The classic example was the aborted Miss World Beauty Pageant that Nigeria was to host in 2003. While some Muslim leaders opposed the pageant that it deals with nudity of women, the show was still about to proceed. Then a Newspaper columnist published an article criticizing those who opposed the show from proceeding and at the end of the article the writer suggested that even if Prophet Mohammed were alive, that he would have loved one of the ladies appearing at the contest. Protests and riots broke out in many cities of the North on the account of that comment and many people were killed and the pageant was then moved to London. The story was that some religious leaders translated the article into Arabic and distributed it in Mosques after Friday prayers and hell was let loose.

<sup>157</sup> Religious issues are now being discussed from the pulpits and Christians are encouraged to go and contest elections. Although most of them when they eventually win the elections seem to become different persons as they are taken away by the lure and lucre of power.

have been responsible for the outbreak of other subsequent religious uprisings. The lasting effect of such incidents on the polity would only be known in the course of time.

### **3.2 Ethnicity in Nigerian Politics**

It has been said that nothing can be understood about Nigeria until its pattern of ethnic diversity is delineated and well understood.<sup>158</sup> We have mentioned above that Nigeria consists of hundreds of ethnic groups with different language and cultural affiliations. Therefore, right before the amalgamation of Northern and Southern protectorates of Nigeria in 1914 to form the modern day Nigeria, ethnicity and tribalism has played pivotal roles in the country's political and democratic processes. However, historically, ethnic identity has defined the scope of political intercourse in almost every other pluralistic societies and Nigeria exemplifies such a society. India and Iraq are also other examples where ethnic or tribal considerations did play serious roles in the political equation of the countries. In each of these societies, including Nigeria, a critical element of the conflict is the treatment of minority groups by the majority groups.<sup>159</sup> Thus, the majority-minority relationship lends itself as one of the conceptual frameworks for analyzing the problems of plural societies, including Nigeria. The others might be said to include ideology, religious affiliation, language etc. Each level of analysis addresses specific problems of the relationship. We have talked about the religious aspects above and would not repeat that. The ideological perspective of analysis in our mind does not apply so much to the Nigeria situation, it being a

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<sup>158</sup> Larry Diamond, Class, Ethnicity and Democracy in Nigeria: The Failure of the First Republic, (New York: Syracuse University Press, 1988) at 21.

<sup>159</sup> In Nigeria it is the treatment of the several hundreds minority tribes that is generating tensions, in India it is the treatment of the castes by the dominant groups which is considered dehumanizing. In Iraq, the relationship between the Shiites and the Kurds of Northern Iraq is giving concern to the international community.

third world country with substantial number of ignorant and sufficiently uneducated people. Language on its part seems to go along with ethnicity although not always.

In Nigeria, the debate about most things that are of national importance without any promptings usually acquires an ethnic flavour because of the long concentration of state power in the hands of a specific group, the Hausa-Fulani.<sup>160</sup> Territorial disputes, access to power and wealth, employment, education and to social services and resource control are some of the causes of ethnic conflicts in Nigeria. In the absence of a national, ideologically oriented political party representing concrete class interests of Nigerians across the ethnic divide, ethnic based political movements have filled the void to challenge the present distribution of power and wealth, while demanding a restructuring of the political system in such a way that will grant them equitable access to these priorities. For example, in the politics of today, the *Afenifere* and the *Odua Peoples' Congress* (OPC) and the Alliance for Democracy (AD) represent the interests of the Yoruba ethnic group, while the Igbo is represented by All Peoples Grand Alliance (APGA) and *Ohaneze Ndigbo*, and the Union of Niger Delta (UND) speaks for the South-South. An *Arewa Consultative Forum* has been established to defend the core interests of the Hausa-Fulani who feel threatened by these challenges to their power.<sup>161</sup> Some also say that the All Nigeria Peoples Party (ANPP) also represents the interest of the North. It does not mean that these are the only organizations having the type of motive stated above, but they are only representing the majority ethnic groups. This balkanization of interest groups and parties had led to a situation where the youth wings of some of these associations (like the OPC) have turned so militant and violent that

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<sup>160</sup> The Hausa-Fulani did effectively call the shots in Nigeria politics from 1966 until 1999 during the periods which they consolidated their power base that it will take centuries for another group to dislodge their influence.

<sup>161</sup> Some of these organizations, especially the *Afenifere* do not really fit clearly into either socio-cultural organizations or pseudo-political parties. What is obvious however is that all of them do desire the capture of power by the political parties to which they are affiliated.

they are virtually uncontrollable in their violent activities. On both sides of North of South of Nigeria, competing ethnic political movements and military units have been established to advance the courses of the respective ethnic groups. This development poses serious potential dangers to the Nigerian state if the causes of ethnic conflicts are not meaningfully resolved.

Over the past four years a series of violent inter-ethnic clashes have caused severe damages to the polity. There were the Ezo-Yoruba confrontation in Lagos, the Igbo-Hausa clash in Aba, the Hausa-Yoruba conflict in Lagos and Sagamu, and the Hausa-Igbo crisis in several parts of the North. All these incidents resulted in the death of hundreds of Nigerians. Buried in this push-and-pull is the perennial problem of minority rights in the polity. The increasing failure of Nigerian political leaders to construct a viable and sustainable strategy for national integration and equitable distribution of national wealth has significantly facilitated the rise of ethnic (and religious) militias and conflicts in the polity.

Across the globe, ethnic conflicts have remained arguably the most potent destabilizing factor in other multi-ethnic polities. Over 90% of states in the international political system are multiethnic, that is, having two or more ethnic groups. Competing ethnic nationalisms challenge the sovereignty of states in Asia, Africa, the Americas, Middle East and Europe. All the problems we witnessed in Rwanda, Burundi, Bosnia-Herzegovina, Serbia, (former Yugoslavia), India and Pakistan were all traceable to a form of ethnic or ethno-religious superiority complex of a sort on the part of one of the parties to the conflicts. Thus, while it is vital for Nigerian political leaders to respond to the dynamics of ethnic conflicts in Nigeria, it is not just enough to condemn ethnocentrism in Nigerian politics. They government must take appropriate measures to address its causes if an abatement of the problem is desired. That seems to be a tall order for

some of the present crop of politicians in Nigeria who have profitted from the apparent instability engendered by ethnic divisions and tensions.

In Nigeria, as in other polities with diverse ethnic affiliations, it is perhaps inescapable that inter-ethnic conflicts do play vital roles in the country's politics. Each ethnic group regards itself as a distinct nationality with defined customs, languages and maybe territories. The contending desires to assert these attributes often come into conflict with the federal government's avowed desire to create a state where the centrifugal force of cohesion outweighs any divisive tendencies. The unfortunate fact is that most Nigerians (especially in times of personal difficulties) always claim allegiance first to their ethnic groups before asserting their Nigerian identity. He or she is first and foremost a Bini, an Efik, an Esan, an Ezon, a Hausa, an Ibibio, an Igbo, an Itsekiri, a Nupe, a Tiv, an Urhobo or a Yoruba, etc. This development must be considered a set-back to the dreams of Nigeria's founding fathers.

It is arguable that there is nothing necessarily wrong for somebody to assert his or her ethnic identity, afterall; it is known that Israelis more often than not assert that they are Jews before mentioning Israel as their country. However the Nigerian situation is different from the Israeli example because Israel is predominantly inhabited by Jews and almost mono-cultural and mono-lingual. This is apart from some Arab-Israelis who nevertheless still speak the Hebrew language substantially. In contrast however, in Nigeria every ethnic group in Nigeria claims that it is being or has been marginalized, deprived and oppressed by either its neighbours or its state of federal government. Irrespective of the fact that the North has produced most of the Nigerian leaders (civilian and military) since independence in 1960; and has controlled the apparatus of state power in Nigeria since then, the average Fulani, Hausa, Kanuri, or Nupe is not materially better

than the average Efik, Ezon, Itsekiri, or Yoruba of the South. Thus, all of Nigerian ethnic groups have been victimized by a coalition of North-South political leaders who have neglected the basic needs of the citizenry. There has been buck-passing as to who should take the blame for this continued neglect of the masses. However, while it is true that the successive federal governments have failed woefully in this regard, it must be stressed that the various state governments have also failed to respond to the basic needs of their respective constituencies. The same politicians who facilitate deficient governance are also engineering the populace to blame the other level of government for their ineptitude and gross mismanagement of their respective states. Therefore it does look like a vicious circle of woes and failure as one ethnic group blames the other and tensions continue to increase among the manipulated masses within these groups, fuelled as it were by the misinformation of the political elite.

The crisis inherent in inter-ethnic relations, aggravated possibly by the collapse of good governance informs the deteriorating state of Federal-State relations in Nigeria. As citizens of a federation, it is expected that Nigerians will pay allegiance to their respective states, for without the federating states there will be no Federal Republic. The inability of a federal government to equitably relate to the interests of the federating units gives rise to centrifugal forces that have threatened to destabilize the federal polity. Thus, the levels of any acclaimed citizenship (whether tribal or national) become entangled in perpetual conflicts as the federal government and the federating units fail to agree on vital issues of interests. Under this scenario, citizens' loyalty gravitates toward their respective states and the continued legitimacy of the federal government is put in doubt. The above is a good way to look at the crises in Nigeria. It should be noted that a number of states did challenge the constitutional base of Nigeria's federal structure. They argued that while the country is supposedly a federation, the 1999 Constitution is

fundamentally a unitary document. It makes the federal government which possesses enormous powers highly centralized, a phenomenon which is injurious to the federal polity, as it tends to establish a quasi-federal or unitary system. But that is the way that the federation is structured for now and unless the Constitution is amended (which is a very arduous process) the situation and its aftermath will continue to remain as it is.<sup>162</sup>

### **3.2.1 Ethnicity and Federalism**

Nigeria is supposedly a federal state. However, as was pointed out above most people are wont to fall back on their ethnic affiliations in the event of any slight “jolt” within the federation. Some states do often protest some policies of the federal government as tending to marginalize the “people of a particular region or group”. This is the case with the people of Niger Delta area of Nigeria. This is the area that produces by far the largest volume of Nigeria’s crude oil, and remaining by far the least developed part of the country. This irony has raised the level of youth militancy in the area resulting in the loss of numerous lives in fights between the youths and the security agents of the governments since the 1980’s. Given the above scenario, any protestation by a group of people is usually perceived as an “ethnic” and against the federal government. This is especially so if the government of the state also shares the views of the protesters. This is so because of the complex ethnic composition of the federation. It must be pointed out that in the final analysis; the strong linkage of contending ethnic and state interests tends to obscure the imperative of a national consensus on the thorny issue of real constitutional federalism. This is

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<sup>162</sup> Section 9 of the Constitution states for any provision of the Constitution to be amended, the proposal for amendment must have been passed by a two-third majority of the members of the House of Representatives and the Senate and supported by Resolution of not less than two-thirds of the Houses of Assembly of the States of the Federation. In essence, after the motion for amendment might have passed by the federal houses, it requires the passage of Resolution by 24 of the 36 states of the federation to sail through.

section 2(1) of the 1999 Nigerian Constitution states that Nigeria shall be a federation, consisting of states and the federal capital territory and that provision has not been amended.

It could therefore be concluded that in Nigeria, every legitimate constitutional question seems to have an ethnic ramification; and determining whether such perspectives are justified or not seems to depend on perception of the protagonists of the respective positions. As a federal polity, the constituent units of the federation are supposed to agree on how much power each of them would concede to the federal government. However, in Nigeria it is apparent that such an agreement did not take place which makes the federation appear like a sort of “forced marriage” between unwilling partners. More importantly though, the proponents of the continued union of Nigeria argue that having fought a three year war between 1967 and 1970 to stop the attempted secession of the Eastern part of Nigeria, the country was in no mood to throw away the fruit of such endeavour. The contrary argument however, is that the present Constitution falls short of an ideal document for the country as it was crafted as a unitary document reflecting the monolithic structure of the military that arranged it. Presently, instead of being coordinates with the federal government, the 1999 Constitution subjugates the federating units to the federal government, thus making the former mere administrative arms of the latter. Several states and individuals have demanded a constitutional conference where the issues of federal-state jurisdictions and powers would be resolved once and for all.

In the past, there have been consistent calls for the total restructuring of the Nigerian state. These calls were based on what has been perceived as the inherent injustice in the structure since the amalgamation of the North and South in 1914. Those arguing for a re-structuring of the Nigerian federalism base their arguments on the premise that the current federal system is faulty. They

argue for example, that the Constitution grants the federal government exclusive powers on almost every vital aspect of national life, from aviation to petroleum and from maritime to defence.<sup>163</sup> The federal government controls the only police service in the country and this gives the federal government the monopoly of the instrument of violence and power.<sup>164</sup> This power is often abused especially when dealing with opposition parties during elections and campaigns for elections. Cases of opposition rallies having been disrupted by police officers on questionable authority abound. The federal government also determines the creation of local government councils<sup>165</sup>. It also has exclusive jurisdiction over precious natural resources (oil, gas, mining, etc.) Therefore, companies that explore and exploit natural and mineral resources have to pay royalties to the federal government.

The above scenario is in total contrast with the Independence Constitution of 1960 and the Republican Constitution of 1963. Both Constitutions adhered to the concept of true federalism. Both Constitutions recognized the independence of the constituent units and their exclusive jurisdictions over natural resources. In 1969, the *Petroleum Act* promulgated by the military regime of General Yakubu Gowon transferred jurisdiction over oil and gas to the federal government. This was initially perceived as an emergency measure to aid the government in its conduct of the civil war against the secessionist Biafran regime at the time. This emergency measure eventually acquired a permanent status as successive military administrations used it as a precedence to justify the national government's exclusive jurisdiction over natural resources.

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<sup>163</sup> All these issues are included in the Exclusive List which are the issues on which only the federal government could make laws and take decisions.

<sup>164</sup> The recent kidnap attempt on the governor of Anambra state has exposed the vulnerability of state governors where the police (that protects the governor) is controlled by the federal government. In this particular instance, based on a spurious court order obtained by an aggrieved party member, the federal government withdrew the police protection of the governor forcing him to go into hiding for his safety.

<sup>165</sup> Although the Constitution gives the states the powers to create local councils, funding for such councils come from the federal government and this has been made the federal government to oppose council creation or it will starve such councils of funds.

There have been calls in the past in political circles that Nigeria should revert to the 1963 Constitution to enjoy true federalism. But the concern is whether that move would exacerbate the already tensed ethnic dichotomy in the country. The issue is complex because ethnicity is a factor that must be contended with in Nigerian politics and this whether the system reverts to the 1963 regime or not.

### **3.2.2 Ethnicity and Induced Problems**

Ethnicity is currently causing a huge social dislocation in the general psyche of Nigerians across the country. It is not only nurtured around the structure and ideology of ethnic nationalities, it is also increasingly becoming a preferred mode of loyalty by Nigerians as opposed to loyalty to the Nigerian state. In essence, ethnic cleavages have defined the current nationalistic discourse regarding the level of the citizens' patriotism. It is therefore an important subset of the national question in Nigeria.<sup>166</sup> The current process of intentional or passive legitimization of ethnic nationalism has given rise to a system of passive loyalty by the different ethnic nationalities to ethnic nationalism. For the first time since the Nigerian civil war, the country is increasingly being characterized by social ingredients of retreat and doubtful legitimization, that is, for the federation itself. This is a very dangerous trend and also leads to a certain measure of patronage of primordial sentiments based on ethnic conviction that national interests.

### **3.3 Corruption and Democratic Transition in Nigeria**

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<sup>166</sup> Issues that constitute the national question have also been caught in the web of ethnic differences. In essence, what the people from the North would like to be resolved is not what those from the South would. Even at that, within the North and South, there are still smaller cleavages of interests that yearn to be addressed.

The incidence of corruption, although a very complex problem, has been defined as “the act of an official or fiduciary person who unlawfully uses his or her station or character to procure some benefit for himself or herself or for another person, contrary to duty and the right of others.”<sup>167</sup> The major concern is that corruption diverts resources allocated for the public good into personal usage of those charged with protecting the public good or their accomplices.<sup>168</sup> The methods of corrupt practices of course vary a great deal. It should be noted also that the incidence of corruption is almost endemic in the annals of the history of Nigeria. It could be recollected that when the military overthrew the first civilian regime after independence, the *coupists* cited corruption and profligate life styles of the politicians as one of their reasons.<sup>169</sup> Furthermore, when the second republic was overthrown by the military in the wee-hours of January 1<sup>st</sup> 1984, the military interveners cited large scale corruption and unbridle squandering of public funds by the politicians as one of their reasons, and infact the major reason.

There would no surprise for any Nigerian to see that the incidence of endemic corruption will likely appear on everyone’s list of factors obstructing Nigeria’s path toward sustainable development. Yet, rather than being on the decline, corruption has proliferated to all segments of the Nigerian society making it the commonest social ill in the country. Typical responses to corruption have involved the overthrow of whole regimes or removal of individual officials implicated in the incidences that have come to light<sup>170</sup>. Unfortunately, these replacements often end up being more corrupt than their predecessors. The major factor responsible for this has been

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<sup>167</sup> *Black’s Law Dictionary* 6<sup>th</sup> ed. (1996)

<sup>168</sup> Robert Klitgaard, *Bribes, Tsribes and Markets that Fail: Rethinking the Economics of Underdevelopment*, (1994) 11 Dev. S. Africa. 481.

<sup>169</sup> Those who actually executed the coup did not succeed in taking over power but the military establishment took over power because the Prime Minister and other notable politicians had been killed during the coup.

<sup>170</sup> There is a recent investigation and trial of some past Ministers for their involvement in scams worth hundreds of millions of dollars in the national identity cards scheme. The end result is what many are waiting for, although some have contended that it is a mere witch-hunt of the officials for falling-out of favour with the Presidency.

that public offices in Nigeria, especially political appointments is regarded as the easiest way to riches, affluence and prestige. Consequently, an appointment to public position almost goes hand-in-hand with the looting of the treasury and amassing of stupendous wealth by the appointees. Cases abound where those who were barely managing to survive in private lives often own houses abroad in the United States and Europe after a few years in the public service. For instance, it was alleged that the late Nigerian Head of State Sani Abacha stole between \$2 and \$4 Billion US Dollars from the national treasury during his five year rule.<sup>171</sup>

How does this relate to our topic on democratic transition? The answer is, in many ways. Because of the lure of lucre in political offices, politicians do virtually everything (including assassination of political opponents, rigging of elections, fetish rituals etc) to ensure that they do not lose elections. This corruption comes in several ways and we might illustrate with one nasty example. When the present civilian regime came to power in Nigeria in 1999, the Speaker of the lower house of legislature was found to have forged his certificate as attending the University of Toronto in Canada. He was forced to resign and convicted in a court of law. But due to his affiliation with the President of Nigeria he was pardoned and would returned as the Speaker of the house but for the stiff opposition of the incumbent speaker and the general public.

Corruption is one of the most dangerous social ills of any society Nigeria inclusive.<sup>172</sup> This is because it attacks the vital structures that make for a society's progressive functioning, thus putting its very existence into serious peril. This is particularly true for developing countries, in that limited but valuable funds and resources that should be used to build and equip industries,

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<sup>171</sup> The federal government has recovered several millions of dollars from the family of the late Head of State and is pursuing other looted funds stashed away abroad.

<sup>172</sup> Larry Diamond, *Nigeria Perennial Struggle Against Corruption: Prospects for the Third Republic*, (1993) 7 Corruption Reform 215.

hospitals, schools, and other infrastructures are either outrightly embezzled or misappropriated. Furthermore, corruption stifles businesses that are unwilling to engage in this nefarious activity; ironically, in some cases it also eventually destroys the companies that yield to this practice, thus halting or delaying a nation's march toward economic progress and development. Perhaps even more damaging than the foregoing is the fact that corrupt leaders tend to cling to power in the knowledge that their activities cannot withstand the scrutiny of any succeeding open government.<sup>173</sup> This desperate desire for self-preservation ultimately results in very ruthless repression of individuals and groups that advocate for democracy and accountability. Note however, that the incidence of corruption is not limited to the public sectors alone as it permeates other fabric of the Nigerian life. This however does not detract from the fact that there many hardworking and honest citizens.

Due to the incidence of corruption in the country, Transparency International (TI), a Berlin-based nonprofit, non-governmental organization established for the main purpose of combating corruption internationally published their survey from 1996 through 2002. In this report, Nigeria has maintained the last or second to the last position since 1996. In the first survey in 1996 Nigeria was last followed by Pakistan and Kenya. However, from 1998 onwards, Nigeria consistently maintained the position as the most corrupt or the second most corrupt country in the world always swapping places with Bangladesh.

### **Table 1**

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<sup>173</sup> Since the then President of Kenya Arap Moi left power last year, it has been one can or worm after another of his nefarious financial recklessness and systematic milking of the country's economy.

**Corruption Perception Index (1996/1997)**

	1996				1997		
Rank	Country	Score		Rank	Country	Score	
1	New Zealand	9.43		1	Denmark	9.94	
2	Denmark	9.33		2	Finland	9.48	
3	Sweden	9.08		3	Sweden	9.38	
4	Finland	9.05		4	New Zealand	9.23	
5	Canada	9.86		5	Canada	9.1	
6	Norway	8.87		6	Netherlands	9.03	
7	Singapore	8.8		7	Norway	8.92	
8	Switzerland	8.76		8	Australia	8.86	
9	Netherlands	8.71		9	Singapore	8.66	
10	Australia	8.6		10	Luxemburg	8.61	
11	Ireland	8.45		11	Switzerland	8.61	
12	United Kingdom	8.44		12	Ireland	8.28	
13	Germany	8.27		13	Germany	8.23	

14	Israel	7.71		14	United Kingdom	8.22
15	USA	7.66		15	Israel	7.97
16	Austria	7.59		16	USA	7.61
17	Japan	7.05		17	Austria	7.61
18	Hong Kong	7.01		18	Hong Kong	7.28
19	France	6.96		19	Portugal	6.97
20	Belgium	6.84		20	France	6.66
21	Chile	6.8		21	Japan	6.57
22	Portugal	6.53		22	Costa Rica	6.45
23	South Africa	5.68		23	Chile	6.05
24	Poland	5.57		24	Spain	5.9
25	Czech Republic	5.37		25	Greece	5.35
26	Malaysia	5.32		26	Belgium	5.25
27	South Korea	5.02		27	Czech Republic	5.2
28	Greece	5.01		28	Hungary	5.18
29	Taiwan	4.98		29	Poland	5.08

30	Jordan	4.89		30	Italy	5.03
31	Hungary	4.86		31	Taiwan	5.02
32	Spain	4.31		32	Malaysia	5.01
33	Turkey	3.54		33	South Africa	4.95
34	Italy	3.42		34	South Korea	4.29
35	Argentina	3.41		35	Uruguay	4.14
36	Bolivia	3.4		36	Brazil	3.56
37	Thailand	3.33		37	Romania	3.44
38	Mexico	3.3		38	Turkey	3.21
39	Ecuador	3.19		39	Thailand	3.06
40	Brazil	2.96		40	Philippines	3.05
41	Egypt	2.84		41	China	2.88
42	Colombia	2.73		42	Argentina	2.81
43	Uganda	2.71		43	Vietnam	2.79
44	Philippines	2.69		44	Venezuela	2.77
45	Indonesia	2.65		45	India	2.75
46	India	2.63		46	Indonesia	2.72
47	Russia	2.58		47	Mexico	2.66
48	Venezuela	2.5		48	Pakistan	2.53

49	Cameroon	2.46		49	Russia	2.27
50	China	2.43		50	Colombia	2.23
51	Bangladesh	2.29		51	Bolivia	2.05
52	Kenya	2.21		52	Nigeria	1.76
53	Pakistan	1				
54	Nigeria	0.69				

Source: Transparency International, Internet Corruption Perception Index, 1996, 1997. Note: The range is from 10 (least corrupt) to 0 (most corrupt)

Another incidence of political corruption in the electoral process is the practice of “gerrymandering”. This is a process whereby the electoral authority on the inducement of the government in power will delineate the constituencies in such a way as to weaken the strongholds of the opposition and strengthen the position of the government in power. In Nigeria, apart from this practice which is rampant, cases of fake ballot papers and ballot boxes, political intimidation of the voters by security agents of the government, thuggery, voting by under-aged voters, bribery of the voters, disappearance of electoral materials and electoral officers, declaration of false results and other forms of manipulation are also rampant. What these incidents do is usually to cast doubt on the credibility of every election and attract calls for their cancellation.

Finally the overall effect of the incidences of corruption highlighted above on the Nigerian state cannot be better put than was done by Professors Ihonvbere and Shaw. They said: “corruption has reduced the legitimacy of the state, eroded the credibility of political leaders, replaced merit and hard work with strong and complex patron-client relations, accentuated inefficiency, ineffectiveness and general disorder in the bureaucratic apparatus and led to mismanagement, waste, and ultimately economic crises.”<sup>174</sup> Of course, as we pointed out above the after effect of all these corrupt practices are much more than economic, but also political and developmental.

### **3.4 Does Nigeria Suffer From “Stateness” Problem?**

Linz and Stepan that described “the stateness problem” as a situation where there is no state so to say in existence to ensure the flourishing of democracy<sup>175</sup>. They continued that it could also be a situation where there is such deep and intense lack of identification with the existing state that large group of individuals in the territory of the “state” would want to join another state or create an independent state.<sup>176</sup> In our opinion, the link between this “stateness” problem and democratic transition and consolidation is that unstable states cannot in any large measure sustain good democratic governance. However, the question as to whether Nigeria suffers from “stateness” problem is a difficult one to answer. This is because the indices that might help to determine whether such a problem do exist in Nigeria are so complex for one to be able to make any categorical statement. For instance, it is not in doubt that Nigeria is a sovereign state. That is, if we accept the observation of Tilley that an organization that controls population within a definite

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<sup>174</sup> J. Ihonvbere and T. Shaw, *Illusions of Power: Nigeria in Transition*, (1998) cited in O. Oko, *Subverting the Scourge of Corruption in Nigeria: A Reform Prospectus*, at [www.nyu.edu/publis](http://www.nyu.edu/publis)

<sup>175</sup> J.J. Linz and A. Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*, (Baltimore and London: the John Hopkins University Press, 1996) at 7.

<sup>176</sup> *ibid*

territory, which is differentiated from other organizations operating within the same territory and is autonomous and coordinates its divisions, meets the criteria for a state.<sup>177</sup>

That said, if we look at the structure of the Nigerian polity before and after independence, it reveals that one region or the other had threatened to secede from the Nigerian state at one time or another. Before independence, the Northern region threatened to secede because of fear of domination and marginalization by the South in the event that independence was granted early enough in the 1950's. Several conferences were held and assurances were given that the Northern interests would be protected in the independent Nigeria. That calmed the existing fears. It is ironic that it is the same Northern region that has dominated Nigeria since the counter coup of 1966 till the present day. Infact, it was one of those threats of secession which was carried to the full by the Eastern region that led to the civil war from 1967 to 1970.<sup>178</sup> But agitations for secession, even if still muted, still pervade the land in one way or the other. For instance, recently, an association that calls itself the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) has been formed and has been insisting on its bid to actualize the dream of the defunct State of Biafra. In the Niger Delta area of Nigeria, the youths are restive and threatening, in some instances, to declare a state of their own. Their grouse has been the apparent marginalization, neglect and underdevelopment of the area which is very glaring, even to the casual observer.<sup>179</sup>

The above problem does not seem to be peculiar to Nigeria. In other parts of Africa like Somalia and Sudan, most of the factors for determining "stateness" problem do exist there. That is, those

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<sup>177</sup> C. Tilley, *Reflections on the History of European Statemaking*, in C. Tilley, ed., The Formation of National States in Western Europe, (Princeton: Princeton University Press, 1975 ) at 70.

<sup>178</sup> See generally J.J. Stremlau, The International Politics of the Nigerian Civil War 1967 – 1970, (New Jersey: Princeton University Press, 1977).

<sup>179</sup> See Land, Oil and Human Rights in Nigeria's Delta Region, (Lagos: Constitutional Rights Project, 1999) at 25.

“states” are in a state of limbo and whether they could rightly be called a state or not is a difficult question. This is because of the severe fractionalization of the apparatus of the state by the several years of fratricidal wars and rebellions. Elsewhere around the world, the former Yugoslavia is a common example of the type of problem in Nigeria, that is, where there is a weak reference to the state as a uniting factor, but where the urge to secede is very high within some of the components parts of the state structure. However, Yugoslavia finally collapsed as the Serbs and Croats all went their different ways to form their respective states.

On a final note, the “stateness” problem, in some ways, might be looked at as a manifestation of a lack of patriotism on the part of those clamoring for secession from the polity. It is very doubtful whether a state that could garner the patriotic zeal of its citizens together would have the problem of fighting against any secession or lack of national identity among its citizens. In Nigeria, the sense of identity, nationalism and patriotism among the citizenry is very low and in some cases non-existent. The reasons are not far fetched and range from the feeling of abandonment by the ruling elite to resort to ethnic and tribal protection by individuals at the slightest prompting. This malaise of “ethnic nationalism” is particularly true of political office holders once they are eased out of office by removal or dismissal. The usual manner by which the government plays its politics of compromise is to replace such a person with another from his ethnic origin, and here, qualification and suitability come in distant second. It is not in doubt that “ethnic nationalism” weakens “state nationalism,” at every turn. Having said that, it would be appropriate to conclude that the lack of “state nationalism” and the persistent clamour for secession by one group or another within the Nigerian state over the preceding decades qualifies it as a political entity that suffers from the “stateness problem.”

## Chapter Four

### 4.1: The Military and Nigeria's Democracy

Ever since the military establishment left their constitutional role of protecting the security and territorial integrity of Nigeria and ventured into politics on the 15<sup>th</sup> of January 1966, the case has moved from bad to worse for the democratic movement. Nigerians have not had it so bad, and the country itself, the military and politicians have not fared better. The “ghost” of the military has been foisted on every civilian government that has been voted into power since 1966.<sup>180</sup> The successive civilian governments in Nigeria have been cowed into doing everything possible to make sure that military personnel are pleased and therefore not attracted to political power.<sup>181</sup>

On the constitutional front, successive civilian regimes in Nigeria have tried in all possible ways to outlaw the take over of government of Nigeria by the force of arms but that has not worked at all. The 1979 Constitution of Nigeria provides in section 1(1) that “this Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.” Section 1(2) of the same Constitution provides that “the Federal Government of Nigeria shall not be governed, nor shall persons or group of persons take control of the government of Nigeria or any part thereof, except in accordance with the provisions of the constitution.” These provisions are repeated in sections 1 and 2 of the 1999 Nigerian

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<sup>180</sup> Infact, in the opinion of Kabir Galadanchi, the situation has turned into a vicious circle, where military men take over, amass wealth for themselves and then return power to civilians who do the same and then the military takes over again. See K. Galadanchi “Nigeria Politics and the Vicious Circle” at [www.nigerdeltacongress.com](http://www.nigerdeltacongress.com) (visited October 7<sup>th</sup> 2003)

<sup>181</sup> Compare this with the situation when the fight for independence was at its peak in Nigeria. See H.L. Bretton, Power and Stability in Nigeria: The Politics of Decolonization, (New York: Frederick Praeger, 1962).

Constitution. The provisions of section 1(2) were meant to take care of any *coup d'etat* or activities of rebels or other like entities that might threaten to secede from the federation of Nigeria. These provisions however, did not prevent the military take over of government in 1983 when the second republic civilian regime was overthrown.

In debating at the Constituent Assembly that brought forth the 1979 Constitution, Professor Tugbiyele, a member of the assembly while responding to issues that were raised by some members felt that the attempt to ban *coup d'etats* in the assembly was an exercise in futility, said:

“perhaps the first logical reaction of anyone who knows anything about comparative institutions is to feel and think that it is most naïve to have suggested this amendment. To think that anything is impossible just because it has not been possible in human history is a sign of obsolescence of thought. Let us demonstrate that, indeed it is not, let us emphasize *not*, impossible to ban *coups*. At least it may have its own psychological effect on the people if we leave something like that in the constitution. If this is an experiment, I am convinced that we have enough reasons for such an experiment. Let not posterity say that we failed to make an effort when we had the chance. The chance is today; tomorrow t may be too late.”<sup>182</sup>

It appeared that this warning was heeded by the assembly and the provision of section 1(2) of the 1979 Constitution was inserted as an anti-coup provision. But critics have said that the

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<sup>182</sup> See J.B. Adesokan, *Nigeria in Search of a Stable Civil-Military System*, (Aldershot: Gower Publishing Company, 1981) at 123.

provision did not stipulate any punishment for any person that might have the temerity to take over the government of Nigeria by unconstitutional means and the military have always relied on that.<sup>183</sup>

In dealing with the Constitution of the Republic after each successful coup, the military have had the tendency of immediately promulgates the first sets of Decrees to suspend the provisions of the major parts of the constitution including sections 1 and 2 and then part 4 which deal with the issues of fundamental human rights and personal freedoms.<sup>184</sup> However, the arguments as to the legality of a takeover of government of Nigeria by the military is unlawful under the Constitution continues as there has not been any coup(s) since the amendment to test the potency of the added provisions. The extent of the efficacy of this provision can only be tested when there is an attempt to forcefully take power form democratic regimes or when such attempt actually succeeds. It could still be argued, if one wishes, that the amendment to the Constitution to punish coup makers was unnecessary. This is because the Criminal and Penal Codes of Nigeria which regulate and punish criminal activities in the country already contain provisions that prohibit treason or treasonable felony and coup makers could be tried under any of those provisions.<sup>185</sup>

The essence of providing for punishment in the Constitution for coup makers and their civilian collaborators should not be lost on anyone. This is because in Nigeria wealthy civilians have been known to fund, sponsor and support military coups in Nigeria since the 1980's. Infact, one

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<sup>183</sup> Some amendments to the Constitution by Parliament in 2002 added prison terms to those that might take over government of Nigeria by Force and their collaborators and also made coup making a "crime at all times" so that the people responsible could be punished even when they had successfully taken over power but later left office after some years.

<sup>184</sup> It is usually said that this measure is that allow the military to act with dispatch and not be bogged down by constitutional requirements of due process in the execution of their duties.

<sup>185</sup> Another justification for putting the provisions in the Constitution is that it is the supreme law of the land and surpasses any other law in the country when there is a conflict of provisions.

time Nigeria's Head of State Ibrahim Babangida did say that the military rely on civilian support to effectively execute a coup. He confirmed that prominent Nigerian civilians and business magnates did sponsor the 1983 and 1985 *coup d'etats* in Nigeria.<sup>186</sup> It is also on record that Chief Great Ogboru, an acclaimed rich businessman was the mastermind of the 1990 failed coup to oust the regime of General Babangida from power.<sup>187</sup> Apart from the civilians that sponsor coups, the other parts that civilians play come after the coup. This could be in the form of sending in congratulatory messages or placing newspaper adverts welcoming the regime and the new rulers as and wishing them well in their attempt to rescue the nation.<sup>188</sup> It could also be in the form of indicating the willingness of the particular person(s) to serve in the regime in question. All these acts by civilians tend to, and infact, do add the much-sought legitimacy to the new military regimes. The military then capitalizes on this new found goodwill and tries to consolidate their hold on power having displayed some level of dexterity in winning over the skeptics. General Babangida, in extolling the smartness of the men of the military, said as follows:

“You see we are very smart people. We don't intervene when we know that the climate is not good for it or the public will not welcome it. We wait until there is frustration in the society. In all coups, you find that there

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<sup>186</sup> See K. Maier, *The House Has Fallen: Midnight in Nigeria*, (New York: BBS, 2000) at 61 cited in C.B. Onwuekwe, *Militarism Versus Democratic Governance*, in T. Falola, ed., *Nigeria in the Twentieth Century*, (Durham: Carolina Academic Press, 2002) at 389.

<sup>187</sup> *ibid.* Ogboru was later pardoned by the current civilian administration and has put himself back into the country's mainstream politics.

<sup>188</sup> A few regimes have had to ban such messages and told the people concerned to use such money to help the poor people in their respective states.

has always been one frustration or the other. Any time there is frustration, we step in. And there is a demonstration welcoming the redeemers”.<sup>189</sup>

Subsequent events have proved however that the military are not anywhere the “redeemers” or the “saviours” that they were thought to be. However, surprisingly this does not stop the illusion in the mind of the populace that political corruption and related brigandage that are often committed by the civilians can only be remedied by a military *coup*. The probable reasons are many. Every person hopes that the next coup might bring a person from his ethnic group or town into a position of authority so that he could partake in the sharing of the spoils of office.<sup>190</sup> Therefore once there is a *coup d’etat*, the very first thing that most Nigerians do is to determine who were the persons behind the *coup* and who were being appointed into positions of authority. In essence once a person feels that he might have his turn in the new regime, more often than not, his criticism of the *coup* fizzles out. The probable notable exception might be some human rights advocates who are fully against military intervention in politics no matter in what form<sup>191</sup>.

In essence, we have tried to show above that the “ghost” of the military keeps hanging on any civilian regime in Nigeria almost in perpetuity. This is only an aspect of the issue however. Another aspect is the current vogue for military personnel to retire from the armed forces and come back as civilians to contest elections<sup>192</sup>. The vogue is fast catching-up throughout the entire

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<sup>189</sup> *ibid.*

<sup>190</sup> the fact that all those who have had the opportunity to loot the national treasury in the past are rarely punished but only “deified” by their people and the general public has immensely contributed to this unfortunate tendency on the part of many Nigerians.

In the past though some notable human rights activists like Dr. Olu Onagoruwa and others have taken up appointments with the military with the attendant condemnation from their constituency.

<sup>192</sup> As at today, the President of Nigeria is a retired military man and so is the Governor of one of the states of the federation. The Vice-President also retired from the Customs and Excise department. Also, of all those indicating

country like wildfire. The reasons for this trend are probably plenty: the return to politics is the only avenue that the military personnel will use to remain relevant in the political equation of the country; and secondly, they usually have plenty of money (looted funds) when they leave office and are therefore in a better position to play money politics than many civilians. The next reason is that by remaining in politics, the retired military personnel are in a position to prevent their being probed by the succeeding civilian administration for their past misdeeds. Finally, politics provide the avenue for them to loot more cash and perpetuate their extravagant lifestyle in the name of “wanting to serve”.

As an illustration, in the Nigeria of today, the President (Olusegun Obasanjo) was a former army general and former Head of State of Nigeria between 1976 and 1979. The Vice-President (Atiku Abubakar) was a former officer with the Nigerian Customs Service. The former Minister of Defence (Theophilus Danjuma) is a retired Army General, although his current position is a political one. At the National Assembly several of the members are retired members of the armed forces. The unfortunate innuendo being introduced into the political equation of today’s Nigeria, is that it will take only a former military leader to prevent the military from coming back into politics via a coup, and the Nigerian public seems to be swallowing this bait, although opposition to that is gradually mounting. The result has been that most political parties in today’s Nigeria seem to lobby past military leaders to join their parties as candidates for elections. For example, for this year’s general elections there are three (3) candidates vying for the post of the President

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interest to contest the Presidential election in 2007, three of them retired from the army and one from the Customs and Excise department.

of Nigeria who are retired army generals. Several candidates for the state-governorship positions are also retired military men and so are the national assembly positions<sup>193</sup>.

The justification by Nigerian milito-politicians for this trend is always sought in the American and other Western experiences. General Eisenhower of the United States later became the U.S. President after retirement and the same goes for Charles De Gaulle in France, and even the Musharaff in Pakistan is also cited as examples. Although for Musharaff, whether he has retired from the military or is still serving is not clear even to his own people. But the examples of Eisenhower and De Gaulle miss the point when related to the Nigerian situation. This is because in their cases they were virtually pressurized by their own people to come and lead them because of their past good records, especially for De Gaulle in France. But in Nigeria, it is a situation where the past leaders were accused of unbridled corruption, human rights abuses and other related crimes and misdemeanours. Even in the face of all these allegations and sometimes proven bad records and criminal tendencies, the past leaders still insist of their “willingness to serve” even if it means forcing themselves on those that they wish to serve.

At this point however, the germane question might be: why has the Nigerian electorates not vote out or refuse to vote for these retired military men if they were not popular candidates? The answer is that there are too many factors responsible for this anomaly. The first culprit is the incidence of tribal and ethnic politics. No matter how badly somebody might have performed in office, once his rule benefited his ethnic group and people, and it often does, they will still vote for and defend him subsequently. Secondly, because so many people are ignorant and do not

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<sup>193</sup> One of the military men Olagunsoye Oyinlola won his election as a Governor of a state (Osun) and several others won their elections into the National Assembly.

have access to high level of education, party manifestos and programmes means very little or nothing to a large number of people and they are easily manipulated. The next reason is money politics. Due to the fact that these retired military men do stash-up huge amount of money before elections, they are able to buy over voters with monetary inducement and even sometimes buy over the electoral officers. This leads to the final reason which is the use of thugs and intimidation. Thugs are freely used to intimidate some voters who might not vote for the chosen candidates to stay away or to cast void votes. It must be noted that it is only the military men that do these ills; their civilian counterparts also do the same although sometimes they do not have the level of monetary comfort to match the retired military officers. This explains why elections in Nigeria is literally a battle to be won with pomp and pageantry or to be lost with huge material losses.

It could therefore be concluded that the “ghost” of the military in the Nigerian political arrangement has come to stay and keeps consolidating with every passing year. This might have been the reason why the first President of Nigeria Dr. Azikiwe recommended a system of government that he at the time called “diarchy,”<sup>194</sup> where the military and the civilians were to be simultaneously in government. Although the suggestion was at the time waved aside, it does appear that so many years after the death of Dr. Azikiwe, that the system of “diarchy” as a political option for Nigeria does merit a hard second look from all those interested in democratic consolidation on the country.

## **4.2 The Role of the Judiciary**

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<sup>194</sup> Azikiwe’s suggested was dismissed as laughable at the time, although not a few people have had cause to ask about the proposal subsequently.

In any democratic government, there is usually a separation of powers between the three tiers of government. The legislature makes the laws, the executive branch implements the laws, while the judiciary interprets the laws and further adjudicates on any dispute(s) that might arise in the polity in general. This is meant to be a system of checks and balances to avoid the assumption of absolute powers by any of the tiers of government and prevent abuse of such powers.<sup>195</sup> This concern led the eminent French philosopher and political scientist Baron De Montesquieu (1689-1755) to propose in his book *The Spirit of the Laws* (1748), the doctrine of “separation of powers” among all the three arms of government.<sup>196</sup> This proposition, in his opinion was to prevent the domination by any three arms over the others and therefore avert subsequent dictatorship because of the possession of absolute powers.<sup>197</sup>

We must concede that in some democratic regimes like those of Robert Mugabe in Zimbabwe, Ferdinand Marcos in Philippines, Ceausescu in Romania and Mobutu Sese Seko<sup>198</sup> in the former Zaire (Congo) and most recently under the Obasanjo regime in Nigeria, the issue of elections fulfils mere formality and the separation of powers between all the branches of government being merely cosmetic.<sup>199</sup> Those are the regimes that do sometimes transform to what has been

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<sup>195</sup> The issue of checks and balances in the body polity of African states is especially cogent to be discussed since there have been numerous occasions where the executive branch had virtually taken over the other branches and turned them into “errand boys” who only carry out the machinations of the leader of the executive branch.

<sup>196</sup> This thinking by Montesquieu had some influence on other Western scholars like Jefferson and Madison (both former U.S. Presidents) in their political thoughts.

<sup>197</sup> In modern political theory however, it has been the norm that the three arms of government cannot be separated into “water tight compartments” as there are usually co-operation of some sort among them.

<sup>198</sup> Some people might argue as to the extent that these states we mentioned can be categorized as democratic regimes, but that is not our priority here.

<sup>199</sup> In Nigeria of today, the National assembly (legislature) has been accused of helping to perpetrate the dictatorship of the President by not acting as a watchdog, although the assembly has always denied such charges. See “Obasanjo’s Style Endangers Democracy” *Thisday Newspaper* 19<sup>th</sup> January 2004. [www.thisdayonline.com](http://www.thisdayonline.com) (visited 20<sup>th</sup> January 2004).

called Sultanistic regimes. In one of his celebrated works on Sociology, Max Weber had written that:

“...Sultanism tends to arise whenever traditional domination develops an administration and a military force which are purely personal instrument of the master...where domination is primarily traditional even though to is exercised by virtue of the ruler personal autonomy, it will be called patrimonial authority; where indeed it operates primarily on the basis of discretion, it will be called Sultanism...Sometimes it appears that Sultanism is unrestrained by tradition, but this is never in fact the case. The non-traditional element is not, however, rationalized in impersonal terms, but consists only in an extreme development of the ruler’s discretion. It is this which distinguishes it from every form of rational authority.”<sup>200</sup>

These types of regimes thrive in personally selected patronages, nepotism, cronyism and unbridled corruption. In polities where the judiciary is alive to its functions, it is the institution that has the responsibility of curtailng the excesses of the executive and the legislature from turning from democratic regimes to Sultanistic regimes<sup>201</sup>. However, it is unfortunate that in most of these countries, the judiciary usually compromises its legal duties for material benefits

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<sup>200</sup> G. Roth and C. Wittich, eds., Max Weber, Economy and Society: An Outline of Interpretative Sociology, (Berkeley: University of California Press, 1978) at 231, cited in H.E. Chelabi and J.J. Linz, eds., Sultanistic Regimes, (Baltimore and London: The John Hopkins Press, 1998) at 4.

<sup>201</sup> It should be noted that in actual repressive regimes the judiciary really has no choice than to do the willing of the executive, except if the judges do not fear for their lives and limbs within such polities, and many of them often do.

and therefore becomes part of the rot that perpetuates such regimes in power. Here Zimbabwe is a classic example.<sup>202</sup>

In Nigeria's struggles over the past decades for a true democratic dispensation, the role of the judiciary has been a blend of both some very disappointing roles and some commendable roles.<sup>203</sup> However, the generality of the opinion is that the successive military regimes in Nigeria over the past decades did emasculate the judiciary into dancing to their tunes.<sup>204</sup> The first sign of this is the assertion by the courts during military regimes, that military Decrees were superior to the Constitution of the Republic of Nigeria. The opinion of the Judges had been that a Decree could be used to amend or even abrogate any part of the Constitution as is usually the case when there is a military takeover of government. The usual method adopted by the military rules is the insertion of "ouster clauses" in most of their Decrees. This usually has the effect of providing that "whatever is done under this Decree cannot be challenged in any court of law." The tragedy of the situation is that courts literally "take to flight" each time an objection is raised that a particular Decree contains an "ouster clause" provision. The military then had become "a law unto themselves", so to say, doing whatever they wanted and cannot most of the time be challenged in a law court.

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<sup>202</sup> Some judges in Zimbabwe have been known to close down opposition media house and imprison opposition politicians on flimsy excuses contrary to their sworn duties of protecting the rights of the citizens.

<sup>203</sup> Latter roles of some judges in Nigeria between 2003 and 2004 have left so many legal minds pondering on the qualifications of such judges to such elevated positions of authority. Some people have even made calls for the psychiatric evaluation of would – be judges before they are so appointed. See "Ngige: Ezeife Calls for Psychiatric Evaluation of Judges" Daily Times Newspaper 27<sup>th</sup> January 2004 [www.dailytimssofnigeria.com](http://www.dailytimssofnigeria.com) (visited 28<sup>th</sup> January 2004)

<sup>204</sup> Judges were known to have been retired over the radio and television and also appointed in like without consultation.

The military government also diminishes the judiciary by establishing special military tribunals to handle cases that have special significance or interest to them. Appeals emanating from the proceedings of such tribunals<sup>205</sup> are then handled by special appeals tribunals and not referred to the country's appellate courts that are manned by very qualified jurists. The decisions of the appeals tribunals are then to be ratified by the Ruling Military Council and then the sentence is executed<sup>206</sup>. The composition of these tribunals does give cause for worry. They are usually manned by retired Judges or a Judge Advocate who is usually a military lawyer but usually under undue influence from the military hierarchy to decide in one way or the other being a serving military personnel.<sup>207</sup>

However, notwithstanding the general cowing of the judiciary by the military establishment over the successive years of military dictatorship in Nigeria, there were some bold decisions by some very brave judges that did establish the place of the judiciary as the final arbiter for the common people of Nigeria. In one of the early cases of *Laknami v. Attorney General of Western Nigeria* (1970), the Supreme Court of Nigeria had held that the expropriation of the property of the plaintiff (Lakanmi) by the promulgation of a military Decree was against the laws of the land and that such expropriation should be reversed. But to show the military mentality at the time (and which continued for succeeding years), after the court's judgment a Decree was brought out by the military government to say that expropriations were not against the Nigerian law and therefore effectively re-writing the laws so to say.

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<sup>205</sup> Onwuekwe *supra* note 2 at 391.

<sup>206</sup> *ibid*

<sup>207</sup> *ibid*

Another landmark decision took place after the annulment of the results of the presidential elections of 1993 widely accepted as the freest elections in the history of Nigeria. The elections were clearly won by Chief Moshood Abiola . The events that followed the annulment of the elections threw Nigeria into a great chaos and the military leaders were forced by public pressure to abandon power and then installed a leader of the interim government. The interim leader was appointed after the military leader had stepped down from office and the appointment was challenged in court in *Moshood Abiola v. Federal Republic of Nigeria and Others*, and the court per Akinsanya, J. declared the appointment of the interim President illegal and of no effect.<sup>208</sup>

The tendency of military to over-rule the judiciary as it were throws up the concern as to the role of the judiciary in securing democratic consolidation in Nigeria. This is because the civilian regimes adopted another system of also buying over or pressurizing judges to do their bidding. Linz and Stepan had maintained that a democratic transition would be complete when “the executive, legislative and judicial powers generated by the new democracy do not have to share power with other bodies *de jure*.” It does appear that in the case of Nigeria, the legislature and the judiciary are “sharing powers” with, or having their powers usurped by the executive. It does not, in our opinion, have to be legally so (*de jure*,) to be disruptive of the democratic process. Once one arm of the government is intruding, without any legal justification(s), into the performance of the functions of the other arm(s), then the democratic process is on the verge of being seriously imperiled.

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<sup>208</sup> It must be pointed that at this instance also, the military government later brought out a Decree to legalize as it were the interim government that the court had declared illegal. Just like in the Lakanmi’s case above, the military had re-written the law as was interpreted by the judiciary.

In all these events therefore, the roles of the judiciary as a third arm of government in the march towards democratic consolidation in Nigeria has been an arduous task which has produced mixed results. The Supreme Court of Nigeria had held that in all circumstances the courts in Nigeria must guard their jurisdiction very seriously. In the case of *Adeyemi v. Attorney General of Oyo State*, Aniagolu JSC (retired) held among other things that:

“It cannot be too often repeated...that the jurisdiction of the courts must be jealously guarded if only for the reason that the beginnings of dictatorships in many parts of the world had often commenced with usurpations of authority of the courts and dictators were often known to become restrictive under the structural and procedural safeguards employed by the courts for the purpose of enhancing the rule of law and preserving the personal and proprietary right of the individuals. It is in this vein that the courts must insist that, whenever possible, on a rigid adherence to the constitution of the land and curb the tendency of those who would like to establish what virtually are kangaroo courts under different guises and smokescreens of judicial regularity.”<sup>209</sup>

In all circumstances however, it does appear that the primary suggestion that can be given is that the judiciary should be self-accounting to avoid the common situation where the executive branch always uses budgetary constraints to blackmail and cajole the judiciary. We must conclude here by pointing out that another factor is the decadence that has penetrated the judiciary where judges and magistrates accept bribes and pervert justice. This is usually the case

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<sup>209</sup> (1984) 1 SCNLR 531 cited in Onwuekwe *supra* note 2.

when the cases before the courts are politically related and all the parties would be ready to induce the judges with as much money as the judge could demand. This is especially so when the judges' remuneration of the judges does not meet with the elevated and sensitive positions that they occupy.

### **4.3 Any Consolidated Democracy in Nigeria since 1960?**

We not consider whether there has been any democratic consolidation in Nigeria since independence in 1960? The answer to this question must wait until we advise that out of the forty years of independence, that the military has ruled Nigeria for twenty-nine years and the civilians fifteen years. Also, it should be noted that since 1983, the military has ruled Nigeria for sixteen and civilians for five years, that is, between 1999 and 2004.

Therefore, the question as to whether there has been any democratic consolidation in Nigeria must be traced to the period of the first republic between 1960 and 1966. To determine whether a democratic consolidation had taken place in Nigeria, we shall revisit the conditions that were set out earlier for such purposes by Linz and Stepan. In summary, they opine that for democratic consolidation to take place there should among other things be: no significant national, social, political or economic actors that attempt to achieve their motives by creating non democratic regimes. Also that the attitudes of the people in the majority of public opinion should point to the fact that they prefer the attainment of their purposes through democratic procedures and very little support do exist, if at all, for anti-system alternatives. Finally, that the governmental and

non-governmental forces alike are then habituated by settling their disputes through the procedures and institutions that are put in place by the democratic process.<sup>210</sup>

The persistence of *coup d'etats* in Nigerian political life has made it very difficult to fulfill one of the major conditions for democratic consolidation; that is the support for non-democratic regime or the issue of secession.<sup>211</sup> We pointed out above that before independence, the issue of secession has been threatened by more than one of the constituent parts of Nigeria and the threats still continue till today in different guises.<sup>212</sup> We have also said that the military incursion into politics via coups more often than not do receive tacit and overt support of civilians. In that wise therefore, it cannot be said that during the Nigerian first republic, that the democratic transition was actual consolidated before it was overthrown in 1966. The situation in the second republic was even worse as the crises of legitimacy dogged the regime from the assumption of office until it was overthrown. There were serious misgivings that the elections of 1979 were heavily rigged to bring President Shagari to power. When subsequently the Unity Party of Nigeria (UPN) it was challenged the election results in court, the Supreme Court of Nigeria gave a strange judgment (holding that two-thirds of 19 states of Nigeria was twelve two-thirds states instead of thirteen states, as a state could not be fractionalized arithmetically). This development led observers to believe that the Supreme Court judges were influenced by then federal military government that were keen to hand over power to a Northerner.

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<sup>210</sup> J.J. Linz and A. Stepan, Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe, (Baltimore and London: The John Hopkins University Press, 1996) at 6.

<sup>211</sup> It must be noted that the Nigerian civil war of 1967 – 1970 was principally to avoid the secession of the then eastern Nigeria from the Nigerian federation.

<sup>212</sup> There have been recent threats by the Ijaws, Ogonis and the MAASOB is still trying to resurrect the Biafran dream that was crushed by the Nigerian troops in 1970.

Examples of consolidated democracies are the countries of North America and Western Europe, where there could not be any incident of military takeover of power. Even when elections were disputed by the opposition, they never will call on the military to take over power and even the military when so called could not do that. The last presidential election in the United States which many considered less than transparent still did not induce the military to take over power even when the case dragged on from one court to the other. In less consolidated democracies in Africa, Asia, and Latin America, the public might have called on the military to overthrow the whole democratic process. Fortunately, military regimes have fallen out fashion in the world politics as means of correcting the political ills of democratic regimes, and it is hoped that one day in the course of history, that the democratic institutions in Nigeria and the Nigerian public would be able to imbibe the democratic tenets to be able to give themselves a consolidated democratic system.

Having said the above, recent events have shown that the politicians in Nigeria have learnt very little from the past and are always ready to play themselves into the waiting hands of the military. The current imbroglio in one of the states in Nigeria (Anambra) is threatening to pull down the nascent democracy in Nigeria. In the state in question, an ordinary citizen of the state organized the kidnap of the Governor (Dr. Chris Ngige) of the state whom he had sponsored to win the election. The reason was that the Governor had failed to adhere to their agreement that allow his sponsor to appoint virtually all the Governor's appointees. The hand of the President of Nigeria appears to be fully at work in the impasse, because the Governor's foe is an in-law to the President and the President has kept mute over the apparent constitutional and treasonable

felonies of the Governors opponent<sup>213</sup>. In several instances the governor has had to abandon the state and ran to other states fear of his life.<sup>214</sup> The opponents of the governor have taken laws into their hands and have engaged in several illegal activities just to remove the governor, which activities have been variously condemned as “civilian *coup d’etat*.”<sup>215</sup> This latest development shows that the quest for democratic consolidation is far from being realized in Nigeria, that is, because according to Linz and Stepan, for such to happen, governmental and non-governmental forces within Nigeria should be “habituated to resolution of conflict within specific laws and institutions sanctioned by the democratic process.” The kidnapping of the governor of a state to settle a dispute is outside such constitutionally sanctioned means.

## Chapter Five: Conclusion

We have taken a look at democratic experiments in Nigeria since independence in 1960 to determine whether there has been any completed democratic transition and then democratic consolidation therein. Democracy is measured by participation - that is, the participation of members of a given community who are or might be affected by the decisions to be made by those to be elected into the respective political offices.<sup>216</sup> In Nigeria, this is not usually the case. Elections are rigged on constant basis and intimidation, killings and harassment have become the order of the day during elections<sup>217</sup>. Unfortunately we have therefore found that while there have

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<sup>213</sup> See “Dont Use Anambra Crises to Scuttle Democracy” Thisday Newspaper 12 January 2004 [www.thisdayonline.com](http://www.thisdayonline.com) (visited 13 January 2004).

<sup>214</sup> See “Ngige Flees” Nigeria Tribune 27th January 2004. [www.nigeria-tribune.com/ngige.htm](http://www.nigeria-tribune.com/ngige.htm) (visited 28 January 2004).

<sup>215</sup> See “For Peace Ngige Must Quit, Says Uba” Thisday Newspaper 13 July 2003. [www.thisdayonline.com](http://www.thisdayonline.com) (visited 14<sup>th</sup> July 2003.)

<sup>216</sup> See C. Cohen, *Democracy*, (Athens: University of Georgia Press, 1971) at 8.

<sup>217</sup> Although those who win elections always brand such elections ‘free and fair’ even against public opinion that elections were flawed.

been some completed democratic transitions, there has never been any democratic consolidation and the prospect of one in the near future is getting very distant. This is because the conditions for such consolidation cannot take effective root with regard to the brand of politics that Nigeria had practiced since independence, that is, the politics of misinformation, intimidation, mal-administration, corruption, winner takes all, and manipulation.

The Nigerian democratic experiment has moved into the fourth republic, which started in 1999. Nothing however seemed to have changed from the politics of the past. Although it has been said that the term “democracy” is an “overworked concept”<sup>218</sup>, it is not in doubt that most enlightened people will recognize a functional democracy when they see one. Now that general elections have passed, the old cankerworms did resurfaced again: political thuggery, assassination, generalized violence, accusations and counter-accusations of plans by the opposing party to rig elections, the use of state machinery and security agents for the intimidation of opposition politicians.<sup>219</sup> The terrible dilemma seems to be that the politicians did not learn from the mistakes of the past in the history of Nigeria. In the past several decades, each time general elections were held and violence results, the military had always capitalized on that to return to power, and yet the politicians do not have the decorum to allow for peaceful elections. The atmosphere already existing in Nigeria with the results of general elections being contested in several courts is now enough for any military officers to stage a coup alleging the lack of credibility of the elections.<sup>220</sup>

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<sup>218</sup> See W.D. Gairdner, The Trouble with Democracy, (Toronto: Stoddart Publishing Co; 2001) at 9.

<sup>219</sup> The last general elections in Nigeria in 2003 has been widely described by observers as the worst in terms of organization and corrupt practices in the history of the country, and still those elected are occupying public offices.

<sup>220</sup> Several state governors are being challenged in court over the elections while the President is also being challenged in court by his opponent during the elections. The verdicts are expected anytime soon.

Aside from the above, one other serious misconception that the Nigerian experience has brought to the fore is that most Nigerians think that democracy is synonymous with periodic elections. But it is not. Linz and Stepan called this trend “electoralist fallacy.” Therefore, with the thought that once elections are held then we are in democracy, the people do not put in all the requisite sacrifice needed on their part to make democracy to survive: like the constitution of a virile civil society which is one of the kernels of stabilized democracies.<sup>221</sup>

So, will the fourth republic survive? Although elections have been held and public officials have gone back to their positions, however, in our opinion this present democracy seems to be doomed for self destruction. We hope that it does not self-destruct, but the signs as we pointed out above are ominous. Several people have discovered that politicians go into government to loot the treasury and joined the train. Such attitude and perception do not augur well for the sustenance of democracy in any polity. Furthermore, the very volatile atmosphere that always pervades the country before and after every election is still in place even after more than six months since the general elections were conducted. The argument has been that the worst democracy is better than the best non-democratic regime. We disagree with this assertion, because when what is supposed to be democracy becomes so debased that it turns to “selectocracy” where the majority of the people are constructively disenfranchised, then it would be wrong to say that such a system is better than other forms of government.

It could be argued though that the problem being faced by the democratic institutions in Nigeria is not really a Nigerian problem but an African problem. Most democratic experiments in Africa

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<sup>221</sup> It is not that Nigerians do not have civil society groups, they do have, but the extent to which the average citizen is identified with such groups is short of the ideal participation.

have been pathetic stories and ended up, with few exceptions like South Africa in the disruption of the polity. For instance, in Zimbabwe, President Mugabe has refused to hand over power to any other person and uses the power of incumbency to return himself to power even against obvious popular disapproval<sup>222</sup>. In Gabon and Togo, Presidents Omar Bongo and Eyadema have respectively made themselves life Presidents using the manipulation of the state apparatus of election. Therefore, the problem with the Nigerian democratic process where the winner takes all seems also to be an African problem by extension.

In the final analysis however, democracy in Nigeria has turned into a game of one step forward and two steps backwards. This is unfortunate and only the future will tell whether we are going back to square one where the military will intervene in the political life of the nation and all the processes of democratization will have to be started afresh as has been done in the past decades. Until then, the position is that the trouble with the Nigerian democratic experiments lingers in the shadow of the gloom which only a radical deviation from self-destructive tendencies by the politicians and leaders can avert.

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<sup>222</sup> Mugabe's opponent in the last general elections in Zimbabwe Mr. Tsagviri is presently facing treason charges for allegedly plotting to kill the President, a charge which many political observers laugh at.

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