

How President Obasanjo Undermined Democracy and Good Governance in Nigeria

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Abstract: The return to democracy in Nigeria in 1999 heightened the people's hopes of good-governance after prolonged years of military dictatorship. However, whatever high hopes the people had soon faded away with undemocratic actions embarked upon by President Obasanjo which tends to negate the principles of rule of law and constitutionalism, principles which are central to the sustenance of democracy and good-governance. It is in this direction that this study seeks to explain how President Obasanjo undermined democracy and good-governance using the forceful and unconstitutional removal of Ngige in Anambra State and the unilateral declaration of martial law in Plateau State as case studies. The study argues that in both episodes, the President acted out of context by not following due process according to the dictates of the Constitution of the Federal Republic of Nigeria. The study submits that apart from the President, other institutions and architectures of the state also shirked their responsibilities, thereby legalizing the illegalities perpetrated by President Obasanjo. The paper concludes that by his actions, President Obasanjo wittingly and unwittingly undermined democracy and good-governance in Nigeria.

Key words: Constitutionalism, democracy, good governance, Nigeria, obasanjo, rule of law

INTRODUCTION

The year 1999 is coterminous with the return of representative democracy in Nigeria as well as the return of Olusegun Obasanjo once again as the head of government after prolonged years of Military interregnum. This new vista of democracy elicited much hope and expectations from the masses in the face of the realities of the preceding six years of dictatorship and near anarchy. However, whatever glimmer of hope Nigerians had in mind about their democracy and the business of governance became evident in the second term of Obasanjo from 2003 to 2007 as crystallized by his disdain for "rule of law" and decent towards authoritarianism, two elements which are antithetical to Democracy and Good Governance. Indeed by his actions, Obasanjo ensured that Nigeria remained a Laggard in ... political developments (Ogundiya, 2010) and underscores (Ake, 1996) assertion that political authoritarianism is an important reason why the development project in Africa has not been able to take off. In this discourse which is basically a descriptive and analytical one, the focus is, using recent historical developments within the period under review, to bring to the fore actions and in-actions of President Obasanjo and how they affect and negate the principles of democracy

and good governance and ultimately the operation of the Nigeria state.

It would be recalled that Nigeria's nascent democracy suffered ridicule and opprobrium in July 2003 and May 2004. In these two episodes, the blatant abuse of constitutionalism and rule of Law in the Nigerian states of Anambra and Plateau under President Obasanjo's watch did not only threaten to weaken democracy but also exposed an open sore in the country's body polity. Essentially, the first episode occurred on July 10, 2003 when the "Elected" executive Governor of Anambra State, Chris Ngige was abducted and reported to have purportedly resigned his position as Governor (The Guardian Newspaper, 2003). The second case occurred a year later when on May 18, 2004 president (Obasanjo), without recourse to other statutory bodies, unilaterally imposed a state of emergency on Plateau state.

These two episodes had far reaching political consequences on Nigeria. The various scenarios elicited debate and comments on the operation of the country's fledgling democracy. Basically, the Plateau case implied that the declaration of emergency suspends for six months the state House of Assembly. Conversely, the Anambra episode reveals that the forceful and arbitrary removal of the elected governor exposes the short comings of the

operation of the country's constitution as well as the problems of God-Fatherism and cronyism in Nigeria's young democracy. More importantly, decay of state institutions and architectures in the form of executive high handedness through direct breach of the constitution and eventual undermining of democracy and good governance also came to the fore. On the whole the primary objective of this study is to bring to light how president Obasanjo by his actions and inactions undermined democracy and good governance in Nigeria.

MATERIALS AND METHODS

This study was conducted in Yenagoa Bayelsa State, Nigeria in 2011. Information for this study is mainly from newspaper and newsmagazine reports on the events which occurred in Anambra and Plateau states of Nigeria within the period under review (2003 and 2004). These are regarded as primary sources for this exercise. However the study also draws strongly from published books, chapters in books and Journal articles related to the task. Lastly, the Constitution of Nigeria is also utilized as a primary source. All these are employed to present this study in a descriptive and analytical manner.

Conceptual clarifications: To have a proper comprehension of how President Obasanjo undermined democracy and good governance in Nigeria warrants a cursory examination and understanding of the two concepts: democracy and good governance, as well as the nexus between them, these we proceed to next.

Democracy: According to Edigin and Otoghile (2011), democracy is a concept that has been subjected to various and sometime contradictory interpretations over the years and that no matter the varying interpretations, the ideas of equality and liberty are central to the original meaning of democracy.

It is generally known that the term democracy is used in three distinct senses. In the general sense, it is used to describe a system of government in which ultimate power (or sovereignty) rests with the people. In the institutional sense, it is used to describe a system whereby the powers are divided amongst different institutions of the state such that some institutions are responsible for making laws, while others are responsible for executing the laws and yet a third may be responsible for mediating or adjudicating in disputes. In this context, the presence or absence of such separation of powers is taken as a major indicator of the presence or absence of democracy. Lastly, in the procedural sense, democracy will mean a political system governed by subjecting essential decisions to a popular election, a plebiscite or a referendum. The essence here is that, the dominant position expressed by the majority is adopted. Which ever sense we chose to adopt does not take the meaning of democracy far from

what Abraham Lincoln epitomized democracy to mean "as the government of the people, by the people and for the people."

Good governance: This term like democracy cannot be stream-lined under a simple straight jacket conception. According to Adejumobi (1995), governance implies the efficient management of state institutions and also that it has to do with steering society and the state towards the realization of collective goals. Edigin and Otoghile (2011) clearly identifies that the term good governance is a logical deduction from the term governance. They aver that since governance is carried out in the interest of the generality of the people, then good governance implies putting the people first in governance carried out in accordance with legal and ethical principles.

Taken in this sense therefore, it is not out of place to say that good governance refers to a system of government based on good leadership, respect for the rule of law and due process, the accountability of the political class to the electorate and transparency in government (Mukoro, 2009).

Democracy and good governance: The nexus: In this discourse, a proper grasp of how president Obasanjo actually undermined democracy and good governance can only be achieved if we can locate the inter connectedness between the two concepts: democracy and good governance and relate both to the main issues in our discussion section. This will greatly illuminate the study.

According to Edigin and Otoghile (2011), since democracy is about the people, their wishes and aspirations then, the dividends of democracy is simply how democracy can bring about development in the society though good governance. Extrapolated further, we can draw from Ogundiya (2010) submission that good governance forms the philosophical foundation upon which democracy and democratic theories are built. Similarly, respect for the rule of law has been identified as an essential element of achieving good governance in a democracy. Indeed it has been observed that, good governance requires fair legal frame works that are enforced impartially. It also requires full protection of human rights ..., impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force (Victor *et al.*, 2010). One can say that central to having democracy and good governance is the rule of law. Without the rule of law we can neither talk of democracy nor good governance. We now proceed to examine the issues which in our view suggest the undermining of democracy and good governance by president Obasanjo.

Issues: The issues advanced in this discourse to underscore Obasanjo's actions against democracy and good governance in Nigeria occurred on July, 2003 in

Anambra state and May 2004 in Plateau state respectively. We proceed to examine each instance one after the other.

The anambra episode: On July 10, 2003 the people of Nigeria were jolted with the news of the abduction of the elected executive Governor of Anambra state, Chris Ngige by unknown assailants (Vanguard, 2003). Events unfolded further to reveal that a prominent politician from the state, Christ Uba who is also a supposed political Godfather of Ngige was the brain behind the abduction (Tell Magazine, 2004). Reports informed that Uba utilized his influence of having “sponsored” the Governor, Chris Ngige, his deputy and 29 out of the 30 members of the Anambra State House of Assembly to dictate the pace and direction of governance in the state. He was clearly, “The seen hand behind the throne.” Indeed it is said that in the removal of Ngige, Uba collaborated with his other Godsons in the House of Assembly to hatch and execute the abduction and forceful removal of Ngige as Governor of the state (Tell Magazine, 2004).

In its coverage of the drama, one of Nigeria’s respected and prominent News magazines, (News watch, Magazine 2003), reported that Uba employed the support and services of one Chuma Nzeribe, another of his Godson’s whom he sponsored to the Federal House of Representatives to intimidate the Anambra State House Legislators with a gun on July 9, 2003 at No. 3 Uba street, Independence layout Enugu-(Uba’s residence). This was done; it seems, ostensibly to compel the legislators to pass a hasty motion urging the Chief Judge of Anambra state to swear-in Okey Udeh, the deputy Governor as the new Governor in place of Ngige. Having succeeded in getting the support of the legislators, Uba and his cohorts forged a purported resignation letter by Chris Ngige and forwarded same to the State House of Assembly for appropriate action. By the morning of July 10, 2003 an Assistant Inspection General (AIG) of police, Raphael Ige, apparently working in consort with Uba and his acolytes ensured that the Governor, Chris Ngige was abducted and removed from government House Awka. In fact News watch reported that the AIG (Ige) arrived the office of the Governor as early as 10.45 am on that fateful day and spent 2 h with Ngige. He was still with the Governor when the speaker of the state House of Assembly brought the purported resignation letter to the governor and that the AIG was served his own copy of the letter in the Governor’s office (News watch Magazine, 2003).

By the time the dust settled at Anambra, it became evident that the whole drama was an attempted coup by a few disgruntled politicians bent on teaching Ngige a lesson for his lack of loyalty to his political benefactors. Even though Ngige survived the intrigues to continue as Governor, the ugly episode threw up several questions which begged for explanations and answers. Some of these are: first, what was the position of the presidency in

the unfolding scenario? Can a serving Governor with immunity just be removed by a pack of coupists? What are the constitutional implications of the whole episode? Lastly, what was the role of the then serving AIG in the whole set up? These we shall examine here-in after.

The plateau episode: On May 18, 2004, President Obasanjo unilaterally imposed a state of emergency on Plateau state following a series of civil disturbances in Yelwa-Shendam local government area of the state. It must be stated here that the ethnic and religious crisis began three months before the imposition of emergency rule (Tell Magazine, 2004). In this scenario, the Hausa/Fulani were pitched against the indigenes over primordial sentiments bordering on indigene/settler differences. These differences soon led to altercations having been aggravated by recourse to religion by both sides, thus fanning the embers of the divide further. Indeed matters became so serious that the intervening period between February and May when the emergency was declared, witnessed a series of killings and counter killings leading to a breakdown of law and order in Yelwa-Shendam (This Day Newspaper, 2004). As a matter of fact, the situation became so bad that it attracted the international media. The BBC and CNN presented reports in Plateau state as if it was an all out civil war situation. This was the general picture of things on ground when president Obasanjo announced the imposition of a state of emergency in Plateau state. In his broadcast, the president adduced the following as reasons for his action:

“It was the only way to quell the ethno-religious crisis that had rocked the Yelwa-Shendam area of the state and keep it from spreading further.... The situation in Plateau state to say the least, constitutes a challenge to our democracy ... we need to take very serious action to stem the tide of what has become a near mutual genocide” (The Guardian Newspaper, 2004).

RESULTS AND DISCUSSION

One cannot fault the president’s desire to maintain law and order and protect the citizenry of Nigeria in general and in Yelwa-Shendam in particular. The concern here is the modus operandi in achieving the objective. As articulated earlier, constitutionalism and Rule of law are central to democracy and good governance. Hence, the abuse, misuse or misapplication of any constitution or constitutional provisions becomes problematic and suggests not only a drift towards authoritarianism and weakening of democracy but also an absence of good governance. This seems to have been the case in Obasanjo’s handling of both the Anambra and Plateau episodes. We now proceed to examine inherent constitutional breaches and implications on democracy and good governance.

The 1999 constitution of Nigeria contains provisions that outlines clearly the ways and means of removing a duly elected Governor of a state as well as the powers a president can draw on to declare a state of emergency on any aspect of the country. Under chapter (iv), part II, section 188 of the constitution, it is clearly provided that:

“The Governor or deputy Governor of a state may be removed from office in accordance with the provision of this section ... whenever a notion of any allegation in writing signed by not less than one third of the members of the House of Assembly of the state; stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified, the speaker of the House of Assembly shall, within seven days of the receipt of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the House of Assembly and shall also cause any statement made in reply to the allegation by the holder of the office, to be served on each member of the House of Assembly ... gross misconduct means a grave violation or breach of the provisions of this constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct” (Federal Government of Nigeria, 1999)

This provision in the constitution, clearly outlines a step-by-step procedure to follow towards the removal of a Governor or his deputy. Among its other provisions, the Chief Judge of the state is to appoint a seven man committee to investigate the allegations. Also, the holder of office of Governor has the right to defend himself in person or by proxy. Furthermore, the panel so to sit has three months to submit its findings to the House of Assembly.

Interestingly, the coupists at Anambra in their brazen determination to remove Ngige ignored the entire above outlined constitutional provisions. Indeed, in their desperate quest to oust the governor, the Uba group disdainfully ridiculed the letters and spirit of the Nigerian Constitution. For instance, irrespective of the provisions of section 188 enunciated above, the same constitution provides for in Chapter (vii), part II, sub-section 306(5) that, “the resignation of the Governor shall be addressed to the speaker of the House of Assembly (1999 constitution, 151). Apparently, Chris Ngige did not write and sign any resignation letter, since he has not been arraigned and found guilty of any offence or misconduct as stipulated in the constitution. However, the Anambra coupists abused section (306) (5), by abducting Ngige and presented his purported resignation letter as proof to demand for his replacement with the deputy Governor.

As the drama in Anambra unfolded, events took a new twist on July 15, 2003 as the Uba group secured a Court Order asking Ngige to vacate office and hand over

to his deputy. Justice Egbo-Egbo, disregarding the immunity for President and Governor provisions in the 1999 constitution as enshrined in section 308, answered the prayers of Uba and his group by asking Ngige to hand over to his deputy. However, as a result of wide-spread public condemnation of the judgment, Justice Egbo-Egbo two days later issued another Order vacating his earlier judgment (Newswatch, 2003).

From the fore going, one can discern clearly that the Anambra episode was a colossal constitutional anomaly. It was a rape of constitutionalism, Rule of Law, democracy and Good Governance. Indeed, it presented Nigeria as a laughing stock in the comity of democratic nations. As a matter of fact, the whole episode smacked of political chicanery and as aptly noted by a legal luminary, Nwabueze, “so unimaginably bizarre” (Nwabueze, 2007). Furthermore, in Anambra, the hand of the Presidency (Aso Rock) in the whole mess was exposed. Both Newswatch and Tell magazines reported that Chris Uba had the backing of President Obasanjo even before the July 10 abduction of Ngige (Newswatch Magazine, 2003; Tell Magazines, 2003). The reports inform that Chris Uba had direct and unrestricted access to the president, what with his sibling Andy Uba, as the presidents’ most trusted Special Adviser. Again, we are made to understand that Obasanjo was briefed prior to the July 10 abduction of Ngige and that he tacitly encouraged the removal of the Governor (Newswatch Magazine, 2003 b). Added to this is the question of the place of police Assistant Inspector General (AIG), Raphael Ige in the whole Saga. It should be noted that the A.I.G couldn’t have acted independently without recourse to his boss, the Inspector General of Police (IG), who in turn reports directly to the president. Indeed, reports had it that on the morning of July 10 when the A.I.G visited Ngige at Government House and where a copy of the purported resignation letter was served Ngige as well as the A.I.G, he, the A.I.G immediately sent out a signal to the I.G at Abuja, requesting for reinforcements which was promptly acceded to (Newswatch Magazine, 2003).

This clearly suggests that the I.G Tafa Balogun was fully aware of the unfolding drama in Anambra and underscores Reverend Kukah’s Submission that “the rule of Law is the base of democracy, if we do not have a legal system that protects both the strong and the weak, then, we have no future,” (Kukah, 2002).

As the Anambra Saga unraveled, revealing in its wake roles played by individuals, state institutions and architectures, several Nigerian’s added their voices to the debate. For instance, Adams Oshiomole, the then president of the Nigerian Labour Congress (NLC) reacted thus: “What is happening in Anambra is a mockery of the Constitution... the situation constitutes a threat to the rule of law” (Newswatch, 2003).

If Nigerians were appalled with the development in Anambra, then the May 18, 2004 proclamation of emergency rule on Plateau state by president Obasanjo

shocked them beyond comprehension. The 1999 constitution provides in chapter (viii), Part II, section 305, provisions empowering a serving president to declare a state of emergency on any part of the country, the constitution states inter-alia:

Subject to the provisions of this constitution, the president may by instrument published in the official Gazette of the Government of the federation issue a proclamation of a state of emergency in the federation of any part thereof. The president shall immediately after the publication, transmit copies of the official Gazette of the Government of the federation containing the proclamation including the details of the emergency to the president of the Senate and the speaker of the House of Representatives, each of whom shall forth with convene or arrange for a meeting of the House of which he is president or speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the proclamation. The president shall have power to issue a proclamation of a state of emergency only when the federation is at war; the federation is in imminent danger of invasion or involvement in a state of war; there is actual breakdown of public order and public safety on the federation or any part thereof to such extent as to require extraordinary measures to restore peace and security, there is a clear and present danger of an actual breakdown of public order and public safety in the federation or any part thereof requiring extraordinary measures to avert such danger; there is an occurrence of any disaster or natural calamity, affecting the community in the federation; there is any other public danger which clearly constitutes a threat to the existence of the federation; or the president receives a request to do so in accordance with the provisions of sub-section (4) of this section (1999 Constitution, 149-150).

Regardless of the above clear-cut provisions in the constitution, president Obasanjo was compelled to invoke emergency powers in a manner that did not follow due process of Law. This action by the president, threw up some constitutional questions. In his reaction, Ben Nwabueze, offered the following explanation:

Emergency powers comprise two distinct powers, viz (i) power to declare a state of emergency; and (ii) power to make laws and to execute them with respect to matters within the exclusive state competence in normal time and to overstep, with some expectations, the limitations on power arising from the constitutional guarantee of fundamental rights in Chapter (iv) of the 1999 constitution (Nwabueze, 2004).

Explaining this line of thought further, Nwabueze informs that a state of emergency validly declared does not by itself; bring into play the second power i.e., the

power to make laws. He emphasizes that it is a fundamental principle of the Rule of Law that Executive Acts must be authorized by Law, at any rate, in so far as they affect the rights and interests of an individual and that the executive is not the one to confer the necessary Legal authorization on itself. The conjecture derivable from Nwabueze's analysis is that, even though the president can proclaim an emergency on any part of the country for purposes of maintaining Law and Order, in the case of Plateau state, the proclamation was done in non-compliance with the requirement of an objective factual situation which presupposes the state of things on ground to constitute a state of emergency and to warrant a declaration. To Nwabueze, a situation of the nature and extent specified which affects only one Local Government Area in a state does not warrant the declaration of an emergency over the entire state anymore than a situation affecting one state alone warrants a declaration of emergency over the entire federation (Nwabueze, 2007).

From the preceding, one can clearly discern that Obasanjo acted out of context constitutionally and anti-democratically. As noted above, the disturbances affected only a small part of Plateau state as against the whole and it had not reached a point where both the Governor and the state House had become incapacitated to make Laws. Indeed, according to Duruji (2010), the 1999 constitution in section 188 stipulates that the governor can be removed either by impeachment, resignation or incapacitation but the section of the constitution relied upon by Obasanjo was not only ambiguous but circumvents the will of the people. In a similar vein, Nwabueze (2004), echoes that the removal of a state Governor from office by reason solely of an emergency situation prevailing in a state, whether or not an emergency is formally declared under section 305 is completely and unequivocally precluded by the provision in section II (4), which declares that nothing in the preceding section shall be construed as confirming on the National Assembly power to remove the Governor ... of the state from office.

Unfortunately for Nigerian democracy, this was not the situation in Plateau state. Appropriate constitutional procedures were not followed in the proclamation of emergency and the sacking of the governor and the House.

CONCLUSION

The lack of strong institutions in Nigeria not with standing, the manner with which president Obasanjo undermined democracy and good-governance by not respecting the rule of law and through constitutional illegalities in both Anambra and Plateau states in 2003 and 2004 respectively remain open sores in Nigeria's nascent democracy and body polity. Most disturbing is the direct involvement of the office of the president in both Sagas. This is so because, ordinarily, one expects the president and the National Assembly to be the Chief

respecters and upholders of the letters and spirit of the constitution. But the contrary was the case within the events and period under review. For one, the National Assembly shirked its responsibilities as an instrument of check on the excesses of the Executive arm of government. With regard to the Plateau case, President Obasanjo arrogated powers not provided in the constitution upon his office. Rather than resorting to the National Assembly to derive the necessary legal authorization for proclamation, the president acted unilaterally. The National Assembly which should have called the president to order for acting unilaterally without recourse to it kept silent, indicating a crass negation of the principles of a democratic system. In the Anambra saga, appropriate institutional agencies neither were nor activated to apprehend and punish the apparent civilian coupists and their collaborators. This clearly suggests top level complicity and culpability of high officers of the state in the saga. On the whole, president Obasanjo by his actions undermined democracy and good governance in 2003 and 2004 as it concerns the events of the forceful removal of a sitting governor in Anambra and the declaration of emergency in Plateau respectively and clearly underscores Oarhre and Augustine (2009), submission that under president Obasanjo's Peoples Democratic Party (PDP), there has been low adherence to the constitution and due process of governance and that the PDP federal government in many instances took ... decisions and actions that brazenly violates the constitutional rights of the states and legislative power.

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