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## **The Place of Law in the Mirror Game of Politics in Nigeria**

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### **Abstract:**

*The association between law and politics has been taken for granted in Nigerian law. Mostly, the political considerations have dominated the legal decisions in Nigeria. Law was conceived as something that should map out the way and means of peaceful co-existence, progress and development of the society under a uniform of rule-guided system. The paper having made use of the complex triangulation and combination of Elite, Games and Marxist theory which has profound impact on sociological thoughts about power and social organizations of human beings visa-viz their relationship in the society. It argues that over the years in Nigeria, law has progressively developed and metamorphosed to having so many faces and has produced different results. These results are negative and positives in most cases. It is on this note that the paper examines the stance of law in the game of politics in Nigeria. While suggesting that time has come to enhance the requirements and position of law in order to give politics and governance a new face in Nigeria.*

**Keywords:** Law, application of law, politics, game of politics, state of the nation

### **1. Introduction**

Living in the community is the nature of the man. The evidence of this fact can be collected from every part of history and pre-history. Living together has certainly some disadvantages like conflict. People always indulge themselves in to competitions/ race to fulfill the basic needs. Every race should have some rules and regulations. Else we are stirring to the state of nature as articulated by Thomas Hobbes. Therefore, the existence of rules and regulations becomes a *sine qua non* to the peaceful co-existence of people.

Politics tends to involve people of different beliefs, character, thinking and ideology. Due to huge future scope, the study of law and politics has been of great interest to scholars. For instance, an early philosopher Aristotle, asserted the inevitability of the constitutions in the political life of a society. Scholars such as Lasswell (1965); Herman Pritchett et al (1941); Vines (1976); Murphy (1966); and Schubert (1965) have contributed substantially to the study of the courts in politics (cited in Becker, 1970).

### **2. Conceptual Interpretations**

Various communities, scholars have defined Law in different manners. For William (1977), it is a specification about right and wrong. Davidson (1998:3) called it a set of rules need to be conducted by the members of the society. It helps to reflect choices and willingness. Law helps to define arrangement that coordinates or confines people's behaviours. It provides a risk of sanctions against disobedient behaviours (Lawal, 2010). It is also pertinent to state briefly some of the code of conduct for the judiciary officers which is independent, strong, respected and respectable judiciary, should be indispensable for the impartial administration of justice in a democratic state, should also be actively participate, maintaining, enforcing, and himself observing a high standard of conduct so that the integrity and respect for the independence of the judiciary may be preserved, all duties of his office prescribed by law, take precedence over all his other activities which of course needs to be reviewed. (Code of conduct for Judiciary officer).

On the other hand, Politics can be defined in various ways but for the purpose of this study, Politics is viewed as the struggle to obtain, maintain and retain power. This struggle is further regulated by law, so as to avoid and reduce conflict and violence which is bound to be generated by this struggle. In addition to that, Harold Lasswell's definition of politics which is 'who gets what, when and how', suits into the study. Politics in Nigeria is therefore summarized as a survival of the fittest as drawn from the above definitions, the most powerful gets to whatever and wherever dined fit in the society without fear or sanction from the law. Law and politics as social phenomena are two releases of the same entity (a monistic ontological conception) (Miro Cerar, 2009). The relationship between politics and law has both a progressive function and a safeguarding function. Therefore, the ability of the law to surpass political games in Nigeria lies on the

independence of the Judiciary, which is barely obtainable. How feasible the Nations judiciary works determines the effectiveness of the entire system.

Nigeria is said to be a democratic state, and one of the characteristics of a democratic state is the principle of 'the rule of law' and much more independence of the judiciary as it concerns the topic under study. In every society, the rule of law is very essential (Elijah. O. J., 2011). What then is this rule of law? The rule of law according to Onwanibe (1989) is that aspect of law which envisages a political system where life is organized according to laws that guarantee a good degree of objectivity in dispensing justice, defending freedom, promoting peace and prosperity because law is a reasonable expression of integrity. If law is obligatory rule of action prescribed by the supreme authority of a state, then the rule of law denotes that every citizen shall not be exposed to the arbitrary desire of the ruler and that the exercise of the powers of government shall be conditioned by law. No one can be lawfully restrained or punished except for a definite breach of law established before the courts in the ordinary legal manner. According to Garner (2004), the rule of law is defined as a legal principle of general application sanctioned by the recognition of authorities, usually expressed in the form of maxim or logical proposition. Garner further states that why it is called 'rule' is owing to the fact that in doubtful or unforeseen cases it is a guide or norm for any decision or action. The rule of law is sometimes seen as the 'Supremacy of the law'.

There is no doubt that the rule of law is unambiguously enshrined in the Nigerian constitution. According to Okon (2011), in his work *'The rule of law in Nigeria; myth or reality'*, 'the only surprising thing to any competent individual is the blatant disrespect shown to this constitutional provision by the Nigerian rulers who had openly sworn to uphold it'. From the backdrop of several cases of unjustifiable arrests, unfair trials, executive lawlessness, suppression of freedom of speech and undue domination of minorities, this is where the theory of Elitism steps in and overrides affairs. Law on the other hand can be conceived as the express formulation of enforceable rules by the appropriate law-making body in a society, for the purpose of balancing and safeguarding individuals and the collective interests of all. Making authority, according to McLean and McMillan (2003), law means the body of rules enforced by a sovereign state, but in a situation when the rules meant generally to stand for all men in the society suddenly succumbs and takes side with a particular set of influential individuals, 'LAW' cannot obviously be independent, it then becomes a tool in the hands of the manipulators, who determines who gets what, how, and when.

It is worthy to note that the democratic rule in Nigeria was suspended by the military intervention in the year 1966 and this saw the end of judicial independence within that period in Nigeria, (Elijah, 2011); Onwanibe, (1989), hence the reintroduction and reinvigoration of the democratic system of government in 1999 during President Olusegun Obasanjo administration which was supposed to bring in the full practice of democracy in the judiciary but looking at what the Nigeria judiciary has become in the hands of the elite therefore, we can say that the Nigerian Judicial system has suffered a great level of intimidation and lack of freedom as they cannot make rules that can be in favour of the masses in the society, judgments are carried out based on the decisions of the elites, the common man do not have much say in the present judiciary.

### 3. Theoretical Explication

The Marxist theory has a deep influence on sociological thoughts about power and social organization the basic determinant of one's class is one's relationship to the means of production (Hugh and Kroehler, 2008). The theory is of the opinion that the judiciary is the executive of a modern state (Beirne, 1979). Marxist theory further struggles that the Judiciary apparatus exercises 'relative autonomy' in its relationship with the capitalist class (Barkey and Parikh, 1991). According to this view, relentless class conflict between capitalists and workers, boom and bust economic cycles (O'Connor, 1973). One does not need to be a lawyer to know that Nigerian laws interpretation unabashedly favour the rich and the powerful (Anele, 2013).

On the other hand, the Elite theory seeks to describe and explain the power relationships in contemporary society. The basic characteristics of the theory are that power and the game of politics is concentrated on their influences and they are unified, the non-elites are diverse and powerless and therefore have little or no say. Wright Mills (1956) in his book *the Power elite* stressed on the power of the elitist group in a society, the circulation of elite however, is a theory of regime change as described by Italian social scientist Vilfredo Pareto (1848-1923). Elitism is a belief or attitude that individuals who form an elite group are selected group of people with intrinsic quality, high intellect, wealth, special skills and are more likely to be constructive to the society as a whole and therefore deserve influence or authority greater than that of the others. This deserved influence has so far been a limit to the stepping up of the normal citizens of the society that law therefore ends up not favouring them even when it should.

Giving further insight on the above, the 'Games theory' is another theory that tried explaining the topic under study. The games theory is the analysis of how decision makers interact in decision making to take into account reactions and choices of the other decision makers. The Oxford Concise Dictionary of politics defines game theory in the following words: 'a game is any situation in which the outcomes (pay offs) are, the product of the intersection of more than one rational player. The term therefore includes not only games in the ordinary sense, but an enormously wide range of human interactions'. As a body of thought dealing with rational decision strategies in situations of conflict and competition, when each participant seeks to maximize games and minimize losses. The game theory therefore tries to understand the actions and reactions of the political class and the power behind these actions, much more it tends to understand the role of the law in the game of politics, in essence; 'is law sidelined?', 'are those in the legal system playing up their own games too not to be at lost?', and are the minority who are at loss, up to any good?'. the opinions of the stated theories above connect in a clear Centre, which is that, the opinions of the legal institutions are not without influence from the government and some other notable political heavyweights. The minorities have little or no say and they are minutely considered, the elitist theory and the games theory examines politics and law and those who have authority per se over it. In the game of politics,

the judiciary who according to A.V. Dicey should be independent, end up being manipulated from the behind by powers that are self-acquired and cannot be overlooked. The both theories are important in this study as it give a clear explanation to the political drama going on in the Nigeria judiciary of today.

Following the above exposition therefore, the 'Marxist, Games and the Elite theory' as espoused in this discussion has exposed the linkages and alignment of the Nigerian factor in the mingling-marriage between law and politics in Nigeria. Suffice to say that law is a cover for the continued accumulation domination and exploitation of the have-not by the haves in Nigeria. Hence Law is a tool at the mercy of the political big weight in Nigeria.

#### Conditions and Place of Law in the Nigerian Political Affairs

For a clearer understanding of the condition and place of law in the Nigerian political affairs, one needs to grab a clear view of the nature and purpose of law in Nigeria. Thus, the Nigerian legal system is based on English common laws modified by Nigerian rulings, the constitution and legislative enactment. For law to serve its purpose, it must possess the following characteristics: Must be made by competent and constituted body that has recognized authority. Secondly, it must be ultimately enforceable; any law that cannot be enforced is no law. Thirdly, it must be dynamic because society in which it operates in, is dynamic and should also be consensual.

In its rational note, laws generally serve the following purpose in any society which it operates:

- Regulate
- Conducts
- Maintain peace
- Provides protection and means of achieving justice.

In a democratic society, every Tom, Dick, and Harry is subject to the law and nobody is therefore above the law. Law serves as instrument of control and stability; it defines pattern of behavior of both the government and the governed. When everybody obeys the law, peace and justice is ensured and much more assured in such setting. But unfortunately, in Nigeria, the reverse is the case. Nigerian law is likened to be oppressive in nature. It oppresses the poor and the downtrodden. This is because the laws are made by those citizens who already belong to the echelon of the apex class; these categories of people are called the movers and the shakers of the nation who has the support of the security architecture of the state, therefore making Might to become Right.



Figure 1

The same set of people also monopolizes and dominates political spaces with their influence; much more they are at the hem of affairs of political activities in the state. Law is therefore a permanently manipulative tool in their palms. This can be seen in the illustration of the above diagram, the movers and shakers with the protection of the security taking it at all cost in the said democratic dispensation.

Nigeria of today is undeniably and sadly a society clothed in a bias garment, a society where the poor has little or no say, a society where people who Karl Marx called 'the classless' are trampled upon socially, physically, economically, and especially politically. They have little or no rights to voice out their opinion, ill enough, the above stated country where all these ills are obtainable is actually declared in the international level as one of the democratic states of the world. It is also worthy to note that whilst all these are going on, the legal system of the 'great nation' Nigeria have little or no say as the people involved in the system (The Judiciary) are somewhat puppets to the elite group of the society, in essence, the top class, who are also politicians per se. A critical dropping down of ears to the ground and taking cognizance notes of the occurrences in the contemporary Nigeria, will virtually explicate the situation at hand and the proper explanation of the topic under study. Political playoffs and mendacities have so far proved that the Nigerian legal system is encaged and are therefore not independent of their own views and the ways of obtaining justice notwithstanding as manipulation by the so called 'bourgeoisie' has taken the order of the day which has redefined the real and true meaning of democracy.

#### Law and Electoral Politics in Nigeria

The inability of Nigerian law (Electoral law or act) to regulate electoral behavior and practically punish violators of such laws has caused more harm than good politically, socially and economically. It is evident today that Nigerian politics is characterized by all sorts of undemocratic tenets such as thuggery, rigging, violence, Godfatherism and to mention but a few. In fact, contemporary events across the country have clearly demonstrated that Nigerian politics has been hijacked by political thugs and bad enough has shut-up the judiciary system.

Consequently, electoral politics becomes a sole possession of the rich/elite classes who have no respect for the law of the country and can affordably pay for the services of thugs. The implication of this is that, a free and fair election which is a characteristic of democracy becomes a mirage. The nature of electoral politics in Nigeria has made people perceive politics as a dirty game with no rules and regulations, in essence, anything can go. Independent National Electoral Commission (INEC) established to make and enforce electoral laws suddenly becomes an instrument and wheel chair to politicians. It assists in rigging of election, declaration of fake election results as witnessed in various states in the last election. This dastardly act is not peculiar to INEC alone, it also cut across the security agencies, the judicial arm of government (custodians of law). These are largely due to lack of respect for rules and regulations guiding the society and much more an act of disregard to the very said democratic system of government Nigeria is practicing.

#### The Place of Law in the Politics of Nigeria

Mockery to the existence of law in Nigeria's democracy is the contending issues of the unaccountable killing of innocent souls, the political bloody rivalry games, issuance of rules that are unfavorable to the masses, the sidelining of a particular set of the citizens of the nation, the rude manners of shutting up masses from airing their view, the ill treatments from the Police and other security agencies, the Imo state gubernatorial electoral results drama owing to the elections of 2019, that of Bayelsa state inclusive, the heartbreaking treatment given to Sowore all in the name of revolution saga and treason attempt, the looting of the state's wealth by the governors and other leaders at the helm of affairs, and much more, little or nothing has been said or done about all these by the custodians of the law. The question is 'WHY? Well to be specific, and in addition to the much said, the so-called custodians of the law are aggressively striving to feed their greedy nature too. They stand for where they will probably gain more, if amongst them one tends to be different; it's quite a hard life to live. A very good number of them have acquaintances with the elite class, and to maintain that relationship, they dare not remind them (the elites, ruling class) that they are beginning to go against the law. In addition to that, the result of these relationships is more of political or judicial promotions which is every man's dream, therefore a desperate soul will do more to obtain, maintain and retain such acquired paraphernalia. This view consequently represents Machiavelli (1469-1527) idea on power, where he advocated that 'the more power a Prince has, the more likely he was to survive, provided that he used his powers to get more powers, for to fall behind one's competitors in this contest would be fatal'. This episodic record best captured the Nigeria's current realities with respect to the place of law in Nigeria's politics, where these custodians of law are positioned and controlled by the ruling class, I bet you, the outcome of every case is therefore feasibly known to favour the elitists.



*Figure 2: Sword of Justice Representing the Sole Interest of the Elitist Bourgeoisie's Class in Nigeria*

Be that as it may, saying that the constitution and rule of law is neglected and overlooked in Nigeria will be stating the obvious. The lack of independence of the judiciary is owing to the fact that most of the members in the judicial systems are puppets to the politicians and are placed there to serve the greedy hunger and taste of these elite groups, these members of the judicial system have no say, all they do is take instructions from their masters, and it has barely been told, heard or seen that a dog disobeys his master. They (the custodians of the law) have no will of their own in judicial matters as they receive orders from the higher position, who are the ones that placed them there. Even when the judiciary decides to do the right within the 'box of justice' obviously those who belong to the elitist class never obeys the ruling of the law. Also, these men in the judicial system are men who tend to satisfy their own greed before focusing on bringing judgment to the seat of the classless society. Now, when the judicial system on its own is totally corrupt, when the security agencies are corrupt also, who will correct who?, this is a question that has a clear answer which is 'NOBODY', and when these both parties (Elite group and the custodians of law) are that way, who suffers more?, of course the poor masses who are regarded as the classless society who have no say in the affairs of the society, meanwhile, democracy is said to be a government of the people, by the people and for the people, which indicates that the political system and the judicial system should stand in the favour of those poor masses who directly or indirectly posited them at the helm of affairs, but it is sad to say that reverse is always the case.



Nevertheless, if all hands can be on deck, if the judicial system can decide to stand for what is right and cease to be biased in decision making, Nigerian political ills can be treated and tamed, and the rule of democracy which says that no man is above the law can be achieved.

#### Conclusions

This paper analyzes the content and context of the operational framework of law in the political sphere of Nigeria. This entails how the law and judicial interpretation of the law shape politics. It also disclosed how the law and political activities interact. It also suggests that for every political game in Nigeria, the law must take its place. It further stated that the law has been sidelined in the political game of the Nigerian state as some reasons were given, one of which is lack of independence of the judiciary and more that were stated above.

#### Recommendations

Law (rule of law) and its adherence herein, is the most important feature of a democratic state and good governance, and an independent judiciary system notwithstanding. It preserves the jurisdiction of the courts and promotes checks and balances of governmental powers. Much more, the legal system of the state should be made and remain unhampered, it should therefore be independent of the powers of the ruling class *per se*, and also if only there can be a sincere sense of responsibility and right sense of attitude on the side and part of members of the judicial system, then the law will take its place in the political games of the nation, electoral malpractice will not be obtainable and if it possibly occurs, the offenders will be made to squarely face the full wrath of the law. Then, on the part of the classless society, there is more to what they can do to gain judgment, it is just a matter of being united and not falling into the snares of the ruling class in a quest to step up, they can stand for what they want with one voice, as Fredrick Douglass rightly said 'if there is no struggle, there is no progress'

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