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Abstract- The concept of democracy ought to be approached by examining its essentials. Democracy expresses both principles and ideals. That is, principles, which those who believe in democracy wish to be given practical expression in the laws and institutions of the society; and ideals which provide goals toward which man in society should constantly aspire for the betterment of the society. From the fore-going, the focus of this paper shall not only be on the definition of democracy alone, but rather on the essence and significance of the rule of law on which the practice of democracy as a political ideology and system stands and rests. Meaning that, it is to thematise that without an implementation of a functional rule of law, such democratic system becomes a sham and pointless. And for proper insight, the methodology adopted by the paper shall be purely expository, critical and analytical. Conclusively, the paper provides the variables for the way forward for Nigeria.

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The Doctrine of the Rule of Law; a Necessity to Democratic Governance

Anuye, Steve Paul [α], Akombo Elijah Ityavkasa [σ] & Abdulsalami Muyideen Deji [ρ]

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I. Introduction

These three concepts, namely, the rule of law, democracy and good governance are so interrelated that one is tempted to liken their relationship to that of Siamese twins. Their relationship is so intricately linked that, sometimes, one wonders where one stops and the other begins. Democracy, the rule of law and good governance are the key elements that are imperative for the existence of what Plato, in his "The Republic"[1], described as an "ideal state". Though, Plato later admitted in the "Statesman" the difficulty of having an ideal or a perfect state, it is generally believed today that every state, no matter how crude, primitive or authoritarian, is saddled with the problems of the rule of law, democracy and good governance. Democracy provides a conducive and stimulating environment for the rule of law to thrive, while the rule of law sustains democracy. Good governance, on the other hand, promotes and strengthens both democracy and the rule of law in every modern society.

The gap in knowledge is that the rule of law, democracy and good governance may be provided in principle in a state, but in practice it is a different ball game. The objective of this paper, therefore, is to x-ray this triumvirate relationship in Nigeria, as well as find out whether the constitutional provisions are in tandem with the realities in the country.

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II. Rule of Law

The Black's Law Dictionary, Sixth Edition[2], defines rule of law as "a legal principle of general application, sanctioned by the recognition of authorities, and usually expressed in the form of a maxim or logical proposition called a "rule" because in doubtful or unforeseen cases it is guide or norm for their decision". The rule of law, sometimes called the supremacy of law, provides that decisions should be made by the application of known principles of laws without the intervention of discretion in their application."

As defined above, rule of law means the equality of all persons before the law or equal subjugation of all classes to the ordinary laws of the land, administered by the ordinary courts. This therefore connotes that no man is above the law and that every man whatever his rank or status or condition, is subject to the law of the land and the jurisdiction of the ordinary courts. In practical parlance, the rule of law presupposes the following as enunciated by the Supreme Court in the case of one time Military Governor of Lagos State and others vs Chief Emeka Odumegwu Ojukwu and another per Oputa JSC namely:

Oputa JSC namely:

1. That the state is subject to the law;
2. That judiciary is a necessary agency of the rule law;
3. That government should respect the right of the individual citizens under the rule of law.
4. The judiciary is assigned both by the rule and by our Constitution, the determination of all actions and proceedings relating to matters in dispute between persons or between government and or authority and any person in Nigeria.

The import and connotation of the term "Rule of law" would be better appreciated if recourse is taken to the observation of the Supreme Court judgment in the case of Apostolic Church vs Olowoleni. In that case, Obaseki JSC as he then was put the matter in proper perspective in the following eloquent expression: "The Rule of law and the Rule of force are mutually exclusive. Law Rules by reason and morality, force rules by violence and immorality." This presupposes therefore that law and morality are integral and indeed inseparable parts of Rule of law. It is also inferable from the same passage that Rule of law has no place for violence and immorality. The reason for this is not

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farfetched. Both violence and immorality breed rancor, acrimony and other terrible vices in the society.

With this exposition on the doctrine of rule of law, it could be seen that the rule of law and democracy go hand in hand. Thus where there is true democratic governance, governance must be tailored in its operation in accordance with the rule of law. Where rule of law is absent, it would be apparent that true democracy is palpable absent in that society.

III. Equality Before The Law

This notion implies that no one is above the ordinary law of the land and that no matter high or low one is in the society, he must be treated equally. Thus, a particular law under which a party is treated must also be used in treating the other party irrespective of their status in the society. From the foregoing, it is manifest that a person who is saddled with the responsibility of adjudication is expected to afford equal treatment and opportunity to all litigants. Thus a judge handling a case must be careful not to be personally interested in the case he is handling. By implication, he must neither adjudicate on a matter in which he is interested nor be partial in his adjudicatory function. He must be interested to hear both parties to the case irrespective of their status in the society before he reaches his decision.

It is another important precondition for real enthronement of the rule of law that judges saddled with the responsibility of administration of justice must be impartial adjudicators. That is, a judge should, in keeping with the requirements of the provisions of section 36 of the 1999 Constitution[3] avoid being partial. He must not be partial to any of the parties involved in any case in the court of law. What we are trying to put through is that under the Rule of Law, an independent and impartial judiciary is an indispensable requisite of a free society. Such independence implies freedom from interference by the executive or legislative arms in the exercise of the judicial functions. However, this does not mean that a judge is entitled to act in arbitrary manner. His duty is to interpret the law and the fundamental principles and assumptions that underlie it, and he should ensure that there is equal access to the law for the rich and poor alike as this is essential for the maintenance of Rule of Law.

It is not in doubt that the judiciary, which is a necessary agency of the rule of law, has awesome powers, granted by the Constitution. However, the judiciary could easily be reduced to a mere paper tiger and the powers meaningless if the agencies of the state (the executive and the legislature) who control the financial and physical resources, including the police and the military, refuse to make those resources available for the enforcement of the orders given by the Courts. Therefore, for the enforcement to be able to command respect and honor, it is imperative for it not only to be seen to be independent, but truly independent. To earn this independence and integrity, the public or community must trust and believe that the judgments/decisions coming out from the courts and tribunals are not only in accordance with the Rule of law and due process, but that they are also fair, equitable, reasonable and transparent.

The question to ask at this juncture is whether Nigeria as a nation could be called a democratic Nation, or in the alternative whether or not the doctrine of Rule of law is in practice in Nigeria. Answer to this question cannot be preferred without x-raying what is common place in Nigeria as of today, despite the belief that we are in a democratic government. It is after the x-ray of events in Nigeria that one can then objectively conclude.

It could not be gainsaid that Rule of Law is a driving force for the sustenance of democracy, and where respect for the rule of law is absent in any so called democratic set up, such a set up cannot be perceived as a democratic entity, but mere civil rule. From the happenings in Nigeria, in recent times, under our own mode of democratic rule, what we are operating under the rule of men, not of law; that the constitution is just an old text that means whatever the current crop of judges say it mean; that all rules are infinitely manipulating; that law is a business like any other; and that business is just the unrestrained pursuit of self interest. There is equally no doubt that the rule of law in Nigeria as of today is different from what it is universally recognized to be.

IV. Freedom of Movement

Freedom to move about unhindered except through lawful and legal means is so important that the makers of our Constitution in section 41 (1) of the 1999 Constitution make quite elaborate provisions for freedom of movement in the following words: "Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exist there from." The case of Alhaji Shugaba Rahman Darmanvs Minister of Internal Affairs readily comes to mind. This was the case of the majority leader in the old Borno state House of Assembly in the Second Republic who was unceremoniously deported from Nigeria to Niger on the ground that he was not a Nigerian.

V. Right of Dissension

The right to hold contrary or opposite view is a sine qua non in the practice of democracy. Section 38(1) of the 1999 Constitution provides that:

"Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion, belief, and freedom (either alone or

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in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance."

The various allegations of the muzzling of oppositions in many state of the federation clearly demonstrate that many of our leaders have not grown out of the meritocracy that pervaded our land before May 1999. Any democratic practice without a robust, articulate and viable opposition is not real democracy. We must allow others with different political and religious belief to express their opinion free from intimidation, blackmail and arm-twisting.

VI. Democracy

The same Black's Law Dictionary defined Democracy as "that form of government in which the sovereign power resides in and is exercised by the whole body of free citizens directly or indirectly through a system of representation, as distinguished from a monarchy, aristocracy, or oligarchy". Democracy could also be described as a political or an institutional arrangement for arriving at political, legislative and administrative decisions involving the majority. It is therefore a method by which the individual acquires the power to participate in decision making by means of a competitive struggle for the people's vote ... it is competition for votes that is the distinguishing character of the democracy method..." In the words of Yusuf O. Ali and SAN MACIArB:

Democracy ensures meaningful and extensive competition among individuals and organized groups (especially polities, either directly or indirectly, for the major positions of governmental power, a highly inclusive" level of political participation in the selection of leaders and policies, least through regular and fair elections, such as that no major (adult) social group is excluded, and level of civil and political liberties-freedom of expression, freedom of the press, freedom to form and join organization sufficient to ensure the integrity of political competition and participation ... "[4]

The Athenians of the ancient Greece defined democracy as the government of the people by the people for the people. This simply means the government people freely put up to serve them without any discrimination on the basis of social status. Euripides, a Greek philosopher long before Plato, shared the above view when he described a democratic state as one governed by people's representatives and for the many who have neither property nor birth.

Plato, another Greek philosopher, had a similar view of democracy when he defined a democratic state in his book, *The Republic*, as a state governed by the philosopher kings, who neither marry nor have personal property, but live together in the barracks (that is, equivalent to government house today) and enunciate policies for the general welfare of the people. However, Plato, in his second and third books, *The Statesman* and *The Laws*, respectively modified his definition when he defined democracy as the government of the people in which law is supreme, ruler and subjects' alike being subject to it.

For Rousseau, democracy is the government of the people for the general will of the people. To provide the general will of the people, government must give liberty under the law, must create a system of public education by which children are accustomed to regard their individuality only in its relation to the body of the state, Rousseau argues. In what he described as democratic centralism, Lenin (1983) defines democracy as the government of the peasants and the proletariat, which subordinates the minority to the majority through a strong party structure that cedes its decision making power to higher party bodies. Under this democratic centralism, argues Lenin, no opposition, criticisms and demand for personal liberty are brooked from the people.

Despite the seemingly divergent views on democracy, there are some basic principles that are common to them. These include supremacy of the law, equality of all citizens before the law, personal liberty, general will of the people, equitable distribution of resources in the society and equal opportunity for all citizens, among others.

The concept of democracy indicates both a set of ideals as well as political system. It is also seen as a set of institutions and as a system of government. Democracy is harder to pin down because it has never become identified with a specific ideology or doctrine like Marxism, Communism and Socialism. Rather, it is a product of the entire development of western civilization. Little wonder, therefore, Bello avers that the more democracy has come to be a universally accepted term, the more it has undergone verbal stretching and has become the loosest label of its kind[5]. The notion and word about democracy, to be precise, is nebulous and consequently carries with it the unprecedented problem of universally acceptable definition. And in line with the opinion of Bello, Eboh points out that the notion of democracy is itself a controversial concept. It is one of the most misused terms in human history. It has different meaning to different peoples and ideologies. There is no agreed definition.[6]

The expression that democracy is government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system is derived from the classical definition given by Abraham Lincoln, a one-time American President, that democracy is government of the people by the people and for the people. But it should be noted, however, that democracy is not as simple as this definition suggests. In Robert Dahl's definition, democracy is 'a society in

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which ordinary citizens exert a relatively high degree of control over leaders[7].

What runs through the above definitions centres on the issue of citizens, but the question now is: who are the citizens? The children? Imbeciles? Lunatics? Are these the set of citizens/people being mentioned? This question is apt here because there is a difference when discussing about people and persons. What demarcates the two set of human beings is the gift of rationality in human persons and not with people. Apart from this difference, there is still the problem that the term is so vague and, more importantly, what one person would regard as a paradigm case; another would deny was a democracy at all.

The definition adopted below suits the purpose of this work, which examines it from the functions of the rule of law as the most essential feature of democracy in the quest for good governance in any society. It is given by the Harveys; they hold that democracy means more than one man one vote. It necessitate settling affairs according to known rules of government, toleration towards minority views, regular elections, freedom of speech and above all, observance of the rule of law. It does not deny the discretion of government authorities but subjects implementation of the result of this discretion to control[8].

It is important at this junction to briefly examine the essentials of democracy. Without these, the idea about the practice of democracy is meaningless. One of the key aspects of democratic culture is the concept of a 'loyal opposition'. The term means, in essence, that all sides in a democracy share a common commitment to its basic values. Political competitors might disagree, but they ought and must tolerate one another and acknowledge the legitimate and important role that each has to play. The place of an organized opposition cannot be over-emphasized because of its importance in any democratic society. It means equal political opportunity for all and the rejection of inherited political privileges, elitism and classes. All citizens, because of their common humanity; share in the same measure an intrinsic moral worth and should, therefore, have equal chance and opportunity to develop their unique and individual personalities as they feel, wish and as they are able.

William, in his article, "The Idea of Equality", suggested humanity endows all men with a certain dignity and entitles all to a certain kind of respect from others in the community[9]. It is plausible, as Rawls says, that although people may possess capacities in varying degrees… but then, provided that some fairly minimal threshold is reached, this can itself provide the grounds for according equal justice, equal liberty, or whatever[10]. All these point to the fact that justice in any setting should be based on the equality of men of which Rawls canvasses for in his article, Justice as Fairness. The introduction of civil liberties into the concept of democracy and their connexion with the rational capacity in human nature seems to be a point of immense importance. Democracy cannot function unless those who seek to exercise those civil liberties recognize the equal rights of others.

Mill's work, "Liberty" published in 1859, centers on the defense of freedom of expression. In his words, "the subject of the essay is 'moral, social, and intellectual liberty asserted against the despotism of society whether exercised by governments or by public opinion"[11]. Khan quotes from Mill's Liberty that, his claim for individual liberty is based on utilitarian grounds:

"I forgo any advantage, which could be derived from the idea of abstract right, as a thing independent of utility. I regard utility as the ultimate appeal to all ethical questions; but it must be utility in the largest sense, grounded on the permanent interests of man as a progressive being[12].

This suggests that liberty should be for the greater number of individuals in the society.

Consequently, a democratic society ought to provide methods and institutions for the preservation of liberty. These include organs like trade unions, civil liberties organizations, mass and print media, among others, that have opportunity to challenge those at the helms of affairs in the best interest of the populace. The principle of consent in democracy is that of the basic rights of the people and the recognition of the basic rights and freedom to dissent and hold contrary views by the minority. Public discussions, free and fair elections are regarded as essentials because they are necessary for achieving consent of the people. The point here is that decisions in administration through majority opinion and election may not always be right since no individual or group has monopoly of truth and knowledge about people and the society in general. Therefore, democracy caters for the views of those in opposition with due respect as those in opposition today might be in the majority tomorrow in order to get the consent of the people. The discussion of the rule of law as the basis of democracy shall now be examined as the most needed ingredient and or essential of democracy.

VII. The Rule of Law as The Basis of Democracy

The rule of law with its definition and attributes, the possibility and conditions for its existence, and its significance as a political value has long been a subject of scholarly investigation and debate. In recent years, it has emerged from the confines of academic and philosophical discourse onto the wider stage of contemporary political events, transcending national borders, political regimes, and legal systems. So, the question is: what is the rule of law? The doctrine of the rule of law is ultimately bound with the practice of

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democracy. Itse Sagay[13] says that "there can be no democracy without the rule of law", and by common agreement, Albert Venn Dicey in his Law of the Constitution, exposed the concept of the rule of law as: When we say that the supremacy or the rule of law is a characteristic of English constitution, we generally include under one expression at least three distinct though kindred conceptions. We mean, in the first place, that no man is punishable or can be made to suffer in body or goods except for a distinct breach of law… every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen…. (Appointed government officials and politicians, alike)… and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorize as if any private and unofficial person[14].

The summary of the concept of the rule of law as examined from Dicey's position is under three fundamental headings; firstly, no man could be punished or lawfully interfered with by the authorities except for breaches of the law. Secondly, no man is above the law and everyone, regardless of rank, is subject to the ordinary laws of the land; and thirdly, there is no need for bill of rights because the general principles of the constitution are the result of judicial decisions determining the rights of the private persons. The International Commission of Jurists held in Lagos in 1961 defined the rule of law as: Adherence to those institutions and procedures, not always identical, but broadly similar, which experience and tradition in the different countries of the world, often having themselves varying political structures and economic backgrounds, have shown to be essential to protect the individual from arbitrary government and to enable him to enjoy the dignity of man[15].

The foregoing definition shows that the rule of law is an important aspect of democracy in the process and quest for good governance of the society. Without the rule of law, there can be no democratic society. All members, including those in authority, are subject to the law. The rule of law, according to Iroegbu, realizes the constraint of reasonableness by treating all equally as full member of the community without discrimination[16]. The order that the rule maintains is a greater value of interaction in community within which the communal good, including the private good, of the members are realizable, and without which none of these is realizable.

Generally, the rule of law has two aspects; first, the law should rule the people and the people should obey the law; second, the law must be capable of being obeyed, hence, the law must be capable of being ascertained and guiding people's behavior. The two aspects of the rule of law mentioned here are indispensable for the good working of the society (state). The first obviates the danger of legalism, that is, citizens becoming slaves of the law, forgetting the spirit behind the law. Legalism forgets the humane aspect of the law. The second avoids the danger of presumption that one breaks the law all the time and gets away with it, as it is the case in many African nations where those who have violated our laws and morals are celebrated and go unpunished.

The foregoing presupposed that if those who transgress the law are not punished, the entire system will collapse because those that are following the first aspect will have reason to think that these sets of people are profiting from the system and contributing commensurately to the political community. The point being made here is that it is imperative that in any democratic society, the rule of law must be inculcated in all the members through education, good example and the consistent application. This is so because it is a condition sine qua non for a good functioning of the political community in the realization of the values of communality and individuality.

We cannot discuss the rule of law without mentioning the issue of separation of powers and other characteristics of the rule of law. The maintenance of the rule of law to which we attach the greatest importance requires particular care that occasion for conflicts among the judiciary, the executive and the legislative arms of government should be reduced to the minimum. Montesquieu found in the principle a guarantee of the kind of restraint on government that given the right setting could assure liberty, that is, a condition in which the laws were appropriate to a well-ordered society and also permitted a considerable degree of individual and group independence. This corresponds to Locke on separation of power into legislative, executive and "federative". Montesquieu advocates for separation and balancing of powers among the three arms as a means of guaranteeing the freedom of the individual. It is one thing to accept the rule of law as a democratic principle; it is another thing to provide institutions for its implementation. In a democratic society, the rule of law places limitations on the power of the government in the interest of personal freedom and for this to be effective; there is the need for an independent judiciary.

The most elaborate system of substantive, procedural and remedial provisions is meaningless without an independent, impartial and competent judiciary for one reason, which is administration. Without jurisdiction to administer, the law is purely academic and without a proper judiciary, the jurisdiction to administer is purely oppressive. As an idea about government and the rule of law, the whole essence is that all authority is subject to and constrained by law[17]. It is the highest law of mankind and profound truth, which allows the most dangerous predator (man) on the planet to live together in peace and harmony, co-operating for

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mutual self-interest and progress as in the social contract theories of Locke, Hobbes and Rousseau to rise from the state of nature. It is also the highest intellectual achievement of man, the result of objective consideration of man's goals; nature, environment, history and survival no one is above the law, which is after all, the creation of the people, not something imposed upon them. The citizens of a democratic society submit to the rule of law because they recognize that, however indirectly, they are submitting to themselves as makers of the law. When laws are established by the people who then have to obey them, both the rule of law and democracy are being served.

The foregoing implies the supremacy of law which, according to Mark Cooray,[18] is a fundamental concept in the western democratic order. The rule of law requires both citizens and governments to be subject to known and standing laws. This must include a distinction between law and executive administration, and prerogative decrees. A failure to maintain the formal differences between these must lead to a conception of law as nothing more than authorization for power, rather than the guarantee of liberty, equally to all.

An important part of the rule of law is that it should be applied prospectively and not retroactively. What this means is that someone should not be punished for sin(s) or crime(s) that is not against a particular law when being committed in a retro-active manner. Considering the prospective nature of legislation in a democratic regime, what we are dealing with is the rule that is just and which protects and promotes the societal good. Hence, it must be consistent in treating similar cases similarly not minding the status of individual being involved. At this juncture, it should be known that law is based on morality. An important question should be raised here that: if law is not based on morality, on what can it be based? The rule of law must rest on the morality and ethos of the community; meaning that the law evolves from the community of men as in the social contract theories where all combined to have a common voice. This is to safeguard the whole community against selfish interests of individual persons. There are other rules, which are unwritten like honesty, integrity, and respect for democratic procedures. All these and others call for moral standards and good behaviors from all the people in the state. The point in discussion is that people's character determines the moral standard on how the rule of law will be based. If people were not well brought up, the rule of law of such community would be shaky.

VIII. Good Governance

Governance is the act of governing. It relates to decisions that define expectation, grant power, or verify performance. It consists of either a separate process or part of decision making or leadership processes. In modern nation-states, these processes and systems are typically administered by a government.

Good governance is a difficult concept, as it is not always easy to define. It is amenable to different definitions depending on the perception of the person. Wikipedia sees good governance as an indeterminate term used in international development literature to describe how public institutions conduct public affairs and manage public resources. However, when we remember that the modern state is a human creation, according to the social contract theorists, namely, John Locke, Thomas Hobbes and Jean Jacques Rousseau, one can hazard on what constitutes good governance. Generally, the social contract theory, believes that the terrible, violent, unsecured and unpredictable state of nature compelled men to come together, under a social contract, and surrender their rights to security of personal lives and property of the state. The state is expected to protect the personal lives and property of the citizens, as well as their general welfare. The state, as an amorphous entity, cedes this power to a smaller and proactive agency called the government. Good governance, therefore, includes the processes and products of the government towards the fulfillment of the social contract it has with the people.

Specifically, good governance involves: enthronement of a democratic government, which guarantees equal participation of all citizens in governance; provision, promotion and sustenance of the rule of law; provision and protection of the constitution; promotion and protection of the fundamental human rights of the citizens; provision and sustenance of the freedom of the press; availability of a transparent, accountable and participatory governance at all levels of government; regular, free and fair elections; as well as provision of basic amenities, such as, portable water, electricity, qualitative education, healthcare delivery, good roads, among others.

IX. Triumvirate of Democracy, The Rule of Law and Good Governance

The relationship between democracy, the rule of law and good governance in any society is so intricate and organic that it is better described as a triumvirate. They are also interdependent that none can survive without the others. Their relationship is akin to what exists between road, car and fuel. The rule of law is the road on which democracy, that is, car, plies, while fuel, that is, good governance, sustains the car (democracy).

The rule of law guarantees personal liberty, freedom and the gamut of fundamental human rights. It provides the conditions on which government functions, including the qualifications of people who can hold public offices. The law stipulates the type, nature and scope of government, as well as the nature of relationship among the organs of government. It

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provides equal opportunities for all citizens and makes provisions on how the personal freedom and liberties of the people will be promoted and protected.

Writing on personal liberty, freedom and equality of individuals as the essential elements of the rule of law, Laski (1982) argues thus:

"A state built upon the condition essential to the full development of our faculties will confer freedom upon its citizens. It will release their individuality. It will enable them to contribute their peculiar and intimate experience to the common stock. It will offer security that the decisions of the government are built upon the widest knowledge open to its members. It will prevent that frustration of creative impulse which destroys the special character of men."

For the rule of law to be supreme, the three organs of government should be independent of one another for proper checks and balances to be in place. The judiciary must be vibrant and fearless, otherwise the executive excesses may go scout free. Democracy will remain an article of faith if the law is not supreme. The constitution guarantees the fundamental human rights, such as right to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private family life, right to freedom of religion, right to vote and be voted for in elections, right to freedom of expression, among others, yet if the law is not supreme the citizens will not enjoy these rights.

Democracy provides all these rights, but if the people cannot enjoy them, then, it is not democracy. If people cannot freely elect their representatives in government, as well as control the government, then that government is not democratic. If people are disenfranchised for no genuine reasons and prevented from active participation in the electoral process, then its product is not democratic.

Good governance sustains democracy, which guarantees the fundamental human rights, including freedom of the press. The media are the purveyors of information on both the rule of law and democracy. The mass media inform, educate, entertain and sensitize people on government and private activities as they affect the public, as well as draw the attention of the people to events, environmental issues and other important matters that have consequences on the citizens.

Lasswell (1968) notes that man usually looks forward to something to watch and learn over his environment, as well as report on inventions, opportunities, discoveries, decisions, dangers, social change, trade and commerce, conflicts and conflicts resolution, among other phenomena that have public consequences. The mass media set the agenda on public discourse, monitor government policies, decisions and programmes, expose the ills of the society and mobilize public opinion towards a particular desired direction. This is the basis of democracy, which is guaranteed only by the rule of law in any society. In the worlds of Schramm (1963):

The structure of communication reflects the structure of development of any society. The size of the communication, the volume of the communication, the direction of communication, the objective of the communication, the development of the communication, the role of the communication, to the society – the ownership of the instrument of communication the audience of the communication, the transfer of the individual communication roles, the stretching out and multiplicity of the society, the facilities and the purposeful use and/or misuse of communication – the content of the communication network at any given time reflects the value pattern of the society it serves.

Emphasizing the role of the mass media in safeguarding democracy and promoting the rule of law for the ultimate objective of upholding good governance in any society, Thomas Jefferson, a former president of US summarizes thus: "… since the basis of democracy was opinion of the people, the very first objective was to keep that right. If it were left for me to decide whether we should have a government without the mass media or the mass media without the government, I should not hesitate a moment to chose the latter".

The summary of this triumvirate relationship is that democracy can only exist in a state where there is the rule of law, otherwise the latter[rule of law] will remain an article of faith without democracy, while good governance sustains both of them with the mass media as their reinforcing element for durability and sustainability.

X. The Rule of Law and its Implication in Developing Democratic Societies

The evidence of problem in developing societies, which is in the non-implementation of a functional rule of law, could be seen in the disregard and manipulation of the national constitution; election and electioneering fraud; abuse of political power; legal and judicial perversions; low regard for the electorates, among others. All these emanate from less respect for the rule of law in the society.

K.A Busia[19], in his paper, "Democracy and One Party System", says that every democratic community must have effective checks on its rulers. Democracy rejects the view that the leader and the group around who lead the single party always infallibly seek the interests of the people, or embody the will of all. Every human being who is mortal is equally fallible; therefore, it implies the right of the people to oppose and their right to choose and to change their leaders. The political institutions must provide democratic outlets for the exercise of those rights. But this is a mirage in many developing democratic societies, especially in Africa where the electorates are left with nothing but to

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succumb to the whims and caprices of the "selected" few because there is arbitrary disobedience to the proceedings of the judiciary by the executives. Here, the judiciary is not independent and autonomous; in practice, it is subject to the whims and caprices of those in power.

I removability at will is a cardinal principle of the rule of law, which must guarantee security of the tenure till retirement at an age, fixed by statutes or death. There must be safeguards against the arbitrary removal of judicial persons, and such should take place under exceptional circumstances and, then, only after the matter has been lawfully considered by a body of judicial commission.

The rule of law is an effective valuable instrument in democracy because it promotes the following: responsibility, reciprocity and trust because these values basically embody what good governance and democracy stand for. Hayek in his book, "The Constitution of Liberty" writes that the belief in individual responsibility . . . has always been strong when people firmly believed in individual freedom[16]. The issue of the individual is a cause that affects personal responsibility. It is not enough to have democracy unless it guarantees individual freedom and collective fraternity.

When it is accepted that liberty is an essential feature of democracy, this does not guarantee the citizenry the absolute rights in all its forms. Responsibility ought to be an effect of such liberty accorded the people. People have to be responsible for whatever form of liberty given to them. Responsibility will not be complete until those in authority are accountable to the electorates. Agbaje writes that accountability… connotes managerial responsibility, efficiency and economy of operation as well as managerial responsibility for effectiveness. It is only when the leaders are accountable and transparent that responsibility as a value in democratic system could be ascertained[20].

Reciprocity is a value that the rule of the law promotes in democracies in the quest for good governance. This (reciprocity) will allow individuals in the society to perform their duties to the state in the intendance of law and order like the paying of necessary taxes and dues to the coffers of the state; abiding by the rules and regulations guiding the state, among others. In response to this, reciprocity comes in, as those at the helms of affairs ought to provide necessary amenities and resources for the progress, growth and development of the state. For the singular reason that the people have consented to the leadership of those at the top, the rule of law here promotes that value of reciprocity in the leaders to the masses (electorates) and vice versa in their own realms.

Respect for the norms, rules, laws and regulations (shared values) are a matter of reciprocity in the society. The rule of law incapacitates all and even the leaders to respect the laws of the land because no man is above the law and everyone regardless of rank is a subject to the norms, rules, regulations and laws of the land. Reciprocity as a value promoted by rule of law is an order of greater value in which social interaction is realizable in two ways, namely: obligation and norms (shared beliefs). The obligations (duties) are vice versa, that is, from the electorates to the state and from the leaders to the masses[21].

It is not enough to itemize the essential features of democracy when there is no trust in those who govern the state. The rule of law, when properly implemented and is functional, puts trust in the minds of the ruled. Trust could only come when the leaders are being guided by a functional rule of law in the spirit of ensuring good governance for the state. The characteristics of the rule of law: separation of powers, judicial precedent, and prospective legislation, among others, will never guarantee trust in the people except as it is stated, that it must be functional. For instance, the Nigerian case is an aberration because the electorates have no trust in those who rule even when there is a constitution to follow, then, jeopardizing the quest for good governance in the society.

From the situation as examined on the importance of trust from the citizens to their leaders, it is observed that the leaders have no moral probity to allege and or accuse any member of the society just because they are also not trusted, and even when they do, they are just camouflaging and exercising their authority when they are also vulnerable the actions. And in a democratic society like ours, it is only a functional rule of law that will promote trust as a value in the leaders from the governed.

XI. The Nigerian Experience

Since Nigeria's political independence on October 1, 1960, successive regimes have continued canvassed for the government based on the principles of the rule of law and democracy. The Nigerian constitution has elaborate provisions on the rule of law and democracy for the ultimate existence of good governance. For example, in the opening paragraph of the 1979 Nigerian Constitution, as consolidated in the 1999 Constitution, it is clearly stated thus:

"We the people of the Federal Republic of Nigeria have firmly adopted this document for the purpose of promoting the good government and welfare of all persons in our country on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people".

Section 1 of both the 1979 and the 1999 constitutions provides that this "constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria". The constitution makes elaborate provisions

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for the promotion and protection of the fundamental human rights as contains in sections 33, 34,35,36,37,38,39,40,41,42,43,44 and 45,[22] among others.

Similarly, the constitution, under its fundamental objectives and directive principles, makes elaborate provisions on government obligations to the people as contained in sections 13 through 21. Section 22 of the 1999 Constitution specially provides that: "the press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this chapter and uphold the responsibility and accountability of the government to the people".

There are also elaborate provisions on the citizenship, separation of powers and other conditions that guarantee the rule of law in the state. Nigeria is also a signatory to various international conventions, charters and treaties that promote and sustain the fundamental human rights and other elements of the rule of law. It is, therefore, safe to infer that the rule of law is supreme in Nigeria, at least, in theory.

Section 2 forbids any persons or group of persons to take control of the government of Nigeria or any part thereof, except in accordance with the provisions of this constitution, which include representative government based on elective principles. There are elections for the three levels of government in Nigeria today. The judiciary, through the various courts and tribunals, has tried to uphold the fundamental human rights. The judiciary has pronounced some landmark cases which include:

Federal government withholding of over N18 billion monthly allocation due to Lagos state local governments under the Obasanjo regime.

1. The National Assembly extension of councilors/ chairman tenure from three to four years.
2. The on shore/off shore dichotomy.
3. The Peter Obi, Andy Ubah Saga in Anambra state.
4. The Dasuki court case and bell saga.
5. The NamdiKanu court case and bell saga. Etc.

The summary of the above issues is that democracy is seemingly at work in Nigeria. Nigeria and other African countries are signatories to international conventions and treaties. Any rate, in appreciable reality, apart from having elaborate provisions on democracy and the rule of law, yet good governance has been a scarce commodity for most of them. In the case of Nigeria, the followings are some limitations on democracy in Nigeria:

a) Economic inequality which has practically denied a large percentage of Nigerians access to government. Poverty, hunger, unemployment, among other economic predicaments, have limited people's participation in government in Nigeria.
b) Ignorance and high level of illiteracy among the people have prevented a large percentage of Africans from benefiting from democratic principles.
c) Many years of military rule has delayed the development of the legislature thereby subordinating it to the executive. For example, it is still vivid to us how the Federal Executive, under the leadership of Chief Olusegun Obasanjo, muzzled down the legislature in Nigeria.

Generally, the successive regimes in Nigeria have ample provisions for democracy and the rule of the law, but good governance has been elusive. The existence of multiparty system has become a permanent feature of Nigerian democracy. The suppression of fundamental human rights, including freedom of the Press, are seemingly the order of the day in Africa. This largely accounts for the low score or outright negative index of Nigeria and other African democracies in the benchmark of good governance as corruption, election irregularities, poverty, unemployment, maladministration, gagging of the press, muzzling down of political opponents, emerging one party state, declining per capita income and gross national product, GNP, among other negative signals are alarmingly evident.

Rousseau, who equates democracy with the general will of the people, has argued that inequitable distribution of wealth in any society is counterproductive to good governance. He has argued that democracy will only thrive if the government provides for the materials welfare of the people, as well as remove gross inequality in the distribution of wealth in the society.

Most African economies, including Nigeria, are off tangent to the Millennium Development Goals, (MDGs). They [African economies] top the index table of corruption in the world as attested by the findings of the Transparency International. Karl Marx has argued that those who control the means of production, distribution and exchange in every state equally control the political power with which they reinforce and sustain their hold on the economy. Chinweizu [1981] shares the above view when he argues that before handing over to the post independent African leaders, the former colonial masters carefully selected those who were sympathetic to the interests of the departing colonial masters and foisted them over the rest as the leaders. These leaders, he argues, are accountable to their paid masters; hence good governance may remain a scarce commodity to them.

For the mass media in Nigeria, notwithstanding government opposition, they have been seemingly active to ensure the active in promotion and sustenance of both the rule of law and democracy in the country. Some Nigerian journalists have been fearless, consistent and forthright in exposing the ills of both the government and the society. For instance, the media fought gallantly against the following:

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a) The Federal government (NPN) deportation of Alhaji Mandara in 1981.
b) The June 12, 1993 presidential elections and the incarceration of Chief M.K.O Abiola (NADECO), by the Abacha administration.
c) Midnight impeachment of Peter Obi (Anambra), Ladoja of Oyo, Joshua Dariye of Plateau, among others.
d) The obnoxious third term elongation proposal by Obasanjo, which was rejected by the senators.
e) The controversial April 14 and 21, 2007, governorship and presidential elections, among others.

Despite the laudable role of the media in upholding the rule of law and democracy for good governance in Nigeria, there are some problems that still limit their aspiration of excellence. These include, but not limit to:

1. Economic predicament which has deprived a large percentage of Nigerians access to media information on democracy, rule of law and good governance to few privileged people in the state capitals and other major cities in Africa.
2. Seditious Publication Act (1958 Criminal Code; 1963 Penal Code Laws of northern Nigeria).
3. Official Secret Act of 1962 and its Amendment Act of 1962.
4. Protection of Public Officers Against False Accusation.
5. Newspaper (Amendment Act) Act of 1964.
6. Obscene Publications Act of 1961, among others.

Today, corruption, ethnicity and ethnocentrism, maladministration, ignorance, poverty, high rate of illiteracy, inflation and other economic predicaments have combined as militating problems against democracy, rule of law and good governance in Nigeria despite elaborate constitutional provisions for remarkable progress. This means that mere constitutional provisions for democracy, rule of law and freedom of the press have not guaranteed remarkable good governance in Nigeria. This is a great challenge to scholars and practitioners of Nigerian democracy.

XII. Conclusion

This piece has been able to examine and argue that the rule of law is the most fundamental essential ingredient in any in democracy, and that without its functional implementation, democracy and democratic praxis become meaningless. In African and other developing nations, democratic practice will contribute to the growth and development of both the state and society only when functional rule of law is implemented. It is on its hinge that democracy and good governance could be preserved and sustained.

The benefits of the rule of law are innumerous; it proposes that government should have restraints, not possessing arbitrary discretionary powers. There should be legal controls over government activities, and no one, including those at the helm of affairs, should be above the law. These principles, if successfully implemented within the state, will result in national stability which will, in turn guarantee good governance and security of individuals.

The application of the rule of law is a situation in which everyone, both in authority as well as those whom they govern, respect the law and the rights of others under the law. The question arises; why is observance to the rule of law so important? It is the most fundamental requirement for a stable democratic society (civil society).

The importance of the rule of law lies partly in the power it limits those in the society and in the discipline to which it subjects all authority. The power and discipline are conditions, which in a democratic society, come from the community. The emphasis on the rule of law as part of developmental initiatives stems from the widespread belief that the rule of law is a pre-condition for economic development. Therefore, a functional rule of law is considered an important characteristic and a pre-requisite for democracy to work in developing societies.

The rule of law, democracy and good governance are the major features of any civilized society today. The governance of any state where any of them is lacking often degenerates to dictatorship and authoritarianism. The rule of law provides the general framework for good governance. Democracy floats on the rule of law, while the good governance promotes and sustains both of them.

Nigeria is governed by the rule of law and democratic principles despite some present limitations. Good governance is the destination of both democracy and the rule of the law. The media have worked hard to try to sustain both the rule of law and democracy despite some structural and institutional problems. Many years of civil rule, no doubt, assisted to frustrate the functional triumvirate of the rule of law, democracy and the media for improved good governance in Nigeria. Except an immediate overhaul of the structural, economic, legal, educational, administrative and other bureaucratic impediments is done, the rule of law and democracy may remain an article of faith, as good governance shall continue to be elusive in Nigeria.

XIII. The way Forward for Nigeria

To promote democracy, the rule of law and good governance in Nigeria, the following measures should be taken:

- National economic restructuring to ensure equitable distribution of resources in the various countries.
- Provision of quality and functional education to improve the literacy level of the citizenry.

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- To promote regular, free, fair and credible elections in Nigeria in order to elect credible and patriotic citizens into national government, as well as encourage participatory democracy.
- Restructuring of the judicial system in order to improve the checks and balances of the organs of government.
- Embark on electoral and bureaucratic reforms for improved service delivery.
- Mass mobilization, value orientation and ethical rebirth of the citizenry.

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