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Discovering Thoughts, Inventing Future

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Um Recorte das Eleições Municipais no Brasil: Candidaturas e Desempenho Eleitoral das Mulheres

By Carolini Gabriel Da Silva

Abstract- The aim of this article is to analyze the candidacies and electoral performance of women in the 2020 municipal elections in the cities of Rio de Janeiro and São Paulo. This election is relevant because it is the first to occur after two changes in electoral rules: the end of coalitions for proportional elections and the creation of the Special Fund for Campaign Financing (SFCF). Both changes establish new requirements for political parties with regard to filling at least 30% of their lists with women and the distribution of financial resources to female candidates. Considering these new rules, the expectation is that the application of quotas will increase not only the number of female candidates, but also the number of elected ones, and the distribution of resources between candidacies of men and women will be less discrepant. From the data of the Superior Electoral Court on candidacies, electoral results and campaign financing in the 2016 and 2020 municipal elections, I show that there was no substantive increase in female candidacies and the Party Fund and the SFCF increased women's income, however their amounts were far from equalizing the conditions of dispute between the sexes.

Keywords: political representation of women; end of proportional coalitions; special fund for campaign financing (SFCF).

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Um Recorte das Eleições Municipais no Brasil: Candidaturas e Desempenho Eleitoral das Mulheres

Carolini Gabriel Da Silva

Resumo- O objetivo deste artigo é analisar as candidaturas e o desempenho eleitoral das mulheres nas eleições municipais de 2020 na cidade do Rio de Janeiro e de São Paulo. Este pleito é relevante porque é o primeiro a ocorrer após duas alterações nas regras eleitorais: o fim das coligações para eleições proporcionais e a criação do Fundo Especial de Financiamento de Campanha (FEFC). Ambas as mudanças estabelecem novas exigências aos partidos políticos no que diz respeito ao preenchimento mínimo de 30% de suas listas com candidaturas femininas e à distribuição de recursos financeiros às candidatas. Considerando essas novas regras, a expectativa é que a aplicação das cotas incremente não apenas o número de candidatas, mas também o de eleitas e que a distribuição dos recursos entre as candidaturas de homens e mulheres seja menos discrepante. A partir dos dados do Tribunal Superior Eleitoral (TSE) sobre candidaturas, resultado eleitoral e financiamento de campanha nas eleições municipais de 2016 e 2020, mostro que não houve aumento substantivo das candidaturas femininas e que o Fundo Partidário e o FEFC incrementaram a receita das mulheres, no entanto seus montantes estiveram longe de equalizar as condições de disputa entre os sexos.

Palavras-chave: representação política de mulheres; fim das coligações proporcionais; fundo especial de financiamento de campanha (FEFC).

Abstract- The aim of this article is to analyze the candidacies and electoral performance of women in the 2020 municipal elections in the cities of Rio de Janeiro and São Paulo. This election is relevant because it is the first to occur after two changes in electoral rules: the end of coalitions for proportional elections and the creation of the Special Fund for Campaign Financing (SFCF). Both changes establish new requirements for political parties with regard to filling at least 30% of their lists with women and the distribution of financial resources to female candidates. Considering these new rules, the expectation is that the application of quotas will increase not only the number of female candidates, but also the number of elected ones, and the distribution of resources between candidacies of men and women will be less discrepant. From the data of the Superior Electoral Court on candidacies, electoral results and campaign financing in the 2016 and 2020 municipal elections, I show that there was no substantive increase in female candidacies and the Party Fund and the SFCF increased women's income, however their amounts were far from equalizing the conditions of dispute between the sexes.

Keywords: political representation of women; end of proportional coalitions; special fund for campaign financing (SFCF).

I. Introdução

O estudo da representação feminina abrange a discussão sobre a posição e o papel das mulheres nas arenas políticas, como a burocracia estatal e as instituições representativas. No que diz respeito ao último caso, o desequilíbrio entre o número de homens e mulheres eleitos passou a ganhar atenção especial no debate acadêmico, visto que o percentual de mulheres que ocupam cargos legislativos no mundo fica muito aquém da expectativa de obter paridade de gênero nos processos decisórios. Segundo a *Inter-Parliamentary Union* (dados referentes a fevereiro de 2019), o Brasil, com apenas 15% de mulheres na sua câmara baixa e 14,8% de mulheres na sua câmara alta, figura na posição 133 no *ranking* mundial sobre a presença feminina em parlamentos e disputa as últimas posições com o Paraguai no *ranking* latino-americano. A realidade de outros países da região, no entanto, é mais positiva. Bolívia, México e Costa Rica são os destaques, apresentando, respectivamente, 53,1%, 48,2% e 45,6 % de mulheres nas suas câmaras baixas.

Levando em conta esse quadro, a discussão sobre a baixa presença de mulheres em cargos parlamentares no Brasil é pautada pelo debate das cotas e por determinados requisitos institucionais que as tornam mais eficientes. As cotas de gênero para posições legislativas foram permanentemente adotadas no Brasil por meio da lei 9.504/97 que estipulou a reserva mínima de 30% e máxima de 70% para candidaturas de cada sexo nas listas de partidos e coligações. A partir daí, as cotas se tornaram uma medida a ser empregada em todas as disputas por posições legislativas, do nível municipal ao nacional. Mas, como será observado neste artigo, mesmo com a implementação das cotas, o número de mulheres selecionadas como candidatas é muito inferior ao número de candidatos e tal tendência se repete em termos de sucesso eleitoral. Isto indica, portanto, que há outros elementos que influenciam o desempenho relativo das candidaturas femininas, e que apenas selecionar mais mulheres não irá solucionar a questão (SACCHET, 2013).

De acordo com a literatura especializada, o desempenho eleitoral feminino quase sempre está relacionado com o sistema eleitoral de representação proporcional de lista fechada (MATLAND, 2000; HTUN e JONES, 2002), a existência de mandato de posição (KROOK, 2016), a magnitude dos distritos eleitorais

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(quanto maior mais favorável) (MATLAND e BROWN, 1992; MEIRELES e RUBIM ANDRADE, 2017) e o perfil ideológico dos partidos políticos (quanto mais à esquerda do espectro político maior seria a tendência dos partidos de selecionar candidatas) (MIGUEL e QUEIROZ, 2006). Ademais, no caso brasileiro, o financiamento de campanhas tem se revelado um tema central para entender o desempenho das candidatas nas eleições, devido à alta correlação existente entre financiamento e sucesso eleitoral no Brasil e ao fato de as mulheres arrecadarem quantias significativamente inferiores às dos homens (SACCHET e SPECK, 2012; SPECK e MANCUSO, 2014).

Considerando que a política de cotas interage com regras eleitorais que otimizam ou minimizam seus efeitos, este artigo tem o objetivo de analisar as candidaturas e o desempenho eleitoral das mulheres nas eleições municipais de 2020 na cidade do Rio de Janeiro e de São Paulo. Este pleito é relevante porque é o primeiro a ocorrer após duas alterações nas regras eleitorais: o fim das coligações para eleições proporcionais e a criação do Fundo Especial de Financiamento de Campanha (FEFC). Para atingir tal objetivo, em primeiro lugar, será apresentada uma breve discussão sobre as condições que tornam as cotas mais eficientes. Em segundo lugar, o artigo irá focar nas reformas eleitorais levadas a cabo no Brasil e desenvolverá algumas hipóteses sobre seus impactos na representação feminina. Em terceiro lugar, será apresentada uma análise dos dados do Tribunal Superior Eleitoral (TSE) sobre candidaturas, resultado eleitoral e financiamento de campanha de homens e mulheres nas eleições municipais de 2016 e 2020 e, por fim, será fornecida uma breve conclusão.

II. Fatores Explicativos da Representação Feminina

Vários autores que estudam o impacto das cotas no aumento de cadeiras legislativas para as mulheres têm defendido que sua eficácia depende de um número de fatores, sendo o principal deles o sistema eleitoral. Matland (2000) e Norris (2006), por exemplo, indicam haver uma propensão maior de que mais mulheres sejam eleitas em sistemas de representação proporcional que em sistemas majoritários ou mistos. Um dos argumentos que justificam essa associação é baseado na diferença entre as magnitudes dos distritos dos sistemas majoritário e proporcional. No primeiro, a existência de apenas um assento em disputa diminuiria as chances de que os partidos investissem em candidaturas femininas, uma vez que os homens, por via de regra, possuem mais capital político (muitos deles ocupam ou já ocuparam posições parlamentares). No segundo, pelo contrário, a magnitude mais elevada dos distritos permitiria que os partidos compusessem suas listas com representantes de diferentes perfis, aumentando as chances de que mais mulheres fossem selecionadas como candidatas (MATLAND, 2000).

Porém, nem todo sistema eleitoral proporcional potencializaria o efeito das cotas. O tipo de lista é outro fator relevante que tem sido debatido por vários autores (HTUN e JONES, 2002; JONES, 2009; SACCHET, 2015). Em um estudo sobre a política de cotas na América Latina, Jones (2009) concluiu que a média de representantes mulheres nos sistemas proporcionais com listas fechadas e com cotas é de 30% e nos sistemas com listas abertas e com cotas esse percentual cai para 22%. Sacchet (2015), numa análise mais detida do sistema e do comportamento eleitoral equatoriano, também vai ao encontro dos resultados anteriores. Segundo a autora, o elevado número de mulheres na legislatura nacional (41,6%) do Equador é explicado pelo fato do seu sistema de lista aberta funcionar como um RP de lista fechada. Tal singularidade seria consequência da preferência dos eleitores pelo voto na lista partidária, ao invés do voto nos candidatos, e da existência do mandato de posição.

O mandato de posição estipula que as listas partidárias devem respeitar o percentual das cotas. Em termos práticos, se a cota é de 30%, como no Brasil, das três primeiras posições das listas de cada partido, no mínimo uma delas deve ser ocupada por mulher e assim sucessivamente até o fim da lista. No caso equatoriano, onde a cota é mais rigorosa (50%), as candidaturas de cada sexo são distribuídas em posições alternadas, o que aumenta as chances de mais mulheres serem eleitas. As listas fechadas podem estar relacionadas com o aumento de mulheres em posições legislativas, mas tal associação depende, em grande medida, da disposição dos partidos em investir em candidaturas femininas. O mandato de posição é, justamente, uma regra que força os partidos a colocarem mulheres nas primeiras posições da lista, que são as mais propensas a darem retornos eleitorais. Sem ele, mesmo em sistemas de RP de lista fechada, a tendência é que os partidos aloquem mais homens no topo e mais mulheres no final de suas listas, onde elas terão menos chances de serem eleitas (KROOK, 2016).

Sobre a magnitude distrital, alguns autores concluem que as mulheres teriam mais chances de se eleger em distritos maiores pelos mesmos motivos apresentados sobre o sistema proporcional, ou seja, a existência de maior disponibilidade de vagas (MATLAND e BROWN, 1992). No entanto, algumas pesquisas vão além, demonstrando que o efeito da magnitude dos distritos sobre a representação feminina, em determinados contextos, não é justificado por esse argumento. Meireles e Rubim Andrade (2017), ao analisar a representação de mulheres nos municípios brasileiros, chegaram à conclusão de que o

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maior número de mulheres eleitas nos municípios que sofreram o incremento de uma cadeira está relacionado com a fragmentação da votação dos candidatos homens e a manutenção da votação dada às candidatas mulheres. Em outros termos, o aumento da magnitude expandiu o número de candidatos homens concorrendo, o que fragmentou suas votações e os deixou com desempenho eleitoral pior. Nesse caso, o problema de coordenação das candidaturas masculinas, gerado pelo acréscimo de uma cadeira, foi a razão para o destaque eleitoral feminino.

Quanto ao perfil ideológico, a ideia é que os partidos de esquerda, por terem uma ideologia mais igualitária e progressista, tenderiam a reconhecer as demandas pela participação política das mulheres, selecionando mais candidatas e apoiando suas campanhas (SACCHET, 2013; ARAÚJO, 2005).

Por fim, o financiamento de campanhas é outro fator responsável pelo desempenho das mulheres nas disputas eleitorais. A literatura aponta que, entre os países que utilizam o sistema de RP com listas abertas, o Brasil é o que possui o índice mais baixo de representação feminina e uma das razões para tal excepcionalidade estaria na sua política de financiamento eleitoral (SACCHET e SPECK, 2012; SACCHET, 2015). Num sistema de representação proporcional com lista aberta, onde os candidatos eleitos são aqueles que individualmente conquistam o maior número de votos dentro de partidos ou coligações, a individualização das campanhas impacta ainda mais a igualdade política se existem financiamentos extremamente desnivelados, ou seja, se alguns candidatos podem aportar quantias financeiras extremamente elevadas para financiar suas campanhas enquanto outros não. No Brasil, as mulheres são invariavelmente desfavorecidas por essa política de apoio financeiro, pois não só tendem a arrecadar quantias substancialmente menores, como também a investir menos recursos próprios em suas campanhas (SACCHET, 2013).

Tendo em vista esses fatores, mobilizados por estudos sobre representação política como sendo centrais para o desempenho eleitoral feminino, na próxima seção, discutirei dois tópicos relativos à reforma eleitoral no Brasil e formularei algumas hipóteses sobre suas consequências para a seleção de candidatos e os resultados eleitorais.

III. Mudanças nas Eleições Municipais de 2020: Fim das Coligações Proporcionais e a Criação do FEFC

O fim das coligações partidárias em eleições proporcionais foi uma das principais mudanças no sistema eleitoral brasileiro para a eleição municipal de 2020. Enquanto estava em vigor, o mecanismo funcionou como um único partido, ao permitir que as legendas se unissem para fins de distribuição de cadeiras nas assembleias legislativas. De acordo com Nicolau (2017), seu uso generalizado correspondia a uma estratégia dos partidos para ultrapassar o quociente eleitoral tanto no nível local quanto federal – que funciona como uma barreira nas eleições para deputado e vereador – e, assim, alcançar representação. Ao instituir o fim das coligações, a reforma eleitoral de 2017 (lei 13.488/17) possuía um duplo objetivo. Em primeiro lugar, visava dar maior clareza aos eleitores sobre sua escolha eleitoral, uma vez que os votos dados a um candidato ou partido coligados contribuíam para eleger outros candidatos ou partidos pertencentes à mesma coligação, e, em segundo lugar, reduzir o número de partidos efetivos no Brasil, considerado demasiado alto por especialistas (NICOLAU, 2017).

A despeito desses objetivos, a nova regra também incrementa o debate sobre a representação política das mulheres. Isso porque, se antes o cumprimento da cota de gênero de 30% para as candidaturas se aplicava à coligação como um todo, agora ela se aplica a cada partido, individualmente. Na prática, isso quer dizer que a reforma aumentaria a eficiência das cotas de gênero, permitindo que mais mulheres fossem incluídas nas competições eleitorais, se todos os partidos cumprissem com a exigência. Sendo assim, a expectativa após a reforma é que surjam mais candidaturas viáveis de mulheres e, da mesma maneira, aumente o número de mandatárias nas câmaras municipais. A identificação de um equilíbrio entre os números de candidatas e eleitas sinalizaria o enfraquecimento de uma tendência identificada pela literatura, segundo a qual o cumprimento do percentual mínimo de 30% de candidaturas femininas pelos principais partidos políticos brasileiros não repercute em maiores chances de sucesso eleitoral das mulheres (SACCHET, 2013; SACCHET, 2015).

No que diz respeito ao Fundo Eleitoral de Financiamento de Campanha (FEFC), sua criação em 2017 é um desdobramento da proibição das contribuições de pessoas jurídicas às campanhas eleitorais formalizada em 2015[1]. O modelo brasileiro de financiamento de campanhas eleitorais tornou-se um dos principais pontos discutidos no âmbito das propostas de reforma política por causa da sua grande dependência em relação a recursos privados e a concentração desses recursos privados por grandes doadores. A decisão do STF de proibir doações empresariais visou, justamente, diminuir a interferência dos recursos financeiros privados sobre a igualdade política entre os cidadãos, a competição entre os candidatos e o comportamento republicano dos eleitos. Sob essas novas condições, o Congresso Nacional

[1] Me refiro à lei 13.165/2015.

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expandiu o valor do Fundo Especial de Assistência Financeira aos Partidos Políticos, o Fundo Partidário, e criou, em 2017, o Fundo Especial de Financiamento de Campanha (FEFC).

Esses dois fundos públicos e as doações de pessoas físicas são, atualmente, as fontes de receitas dos partidos políticos brasileiros. De acordo com a literatura, a preponderância e, em alguns casos, a exclusividade do financiamento público de campanha criam incentivos para a participação de diferentes grupos sociais no processo político e democratizam a disputa pelo voto ao possibilitarem que candidatos com menos poder econômico, ou com menos suporte financeiro de redes tradicionais de financiadores, possam também disputar o apoio do eleitor (SACCHET, 2015; SPECK e MANCUSO, 2014). Porém, esses modelos de financiamento também têm deficiências se não apresentarem mecanismos efetivos de controle que possam equalizar a distribuição dos recursos financeiros feita pelos partidos políticos. Nesse quesito, as eleições de 2020 inauguraram, no nível municipal, a aplicação de regras que tornaram a distribuição dos recursos do FEFC e do Fundo Partidário, bem como o tempo de propaganda eleitoral gratuita no rádio e na televisão, proporcionais ao percentual mínimo de candidaturas por gênero[2].

Considerando essas novas regras de financiamento de campanha, a expectativa é que a distribuição dos recursos entre as candidaturas de homens e mulheres seja menos discrepante e a diferença entre os montantes de recursos gastos por homens e mulheres eleitos seja menor. Devido à alta correlação entre recursos financeiros e sucesso eleitoral no Brasil (SACCHET e SPECK, 2012; SPECK e MANCUSO, 2014), a redução das diferenças entre os financiamentos de homens e mulheres é extremamente relevante para a equidade de gênero nas esferas de poder.

IV. Candidaturas e Desempenho Eleitoral das Mulheres nas Eleições Municipais de 2020

Os dados para as eleições municipais da cidade do Rio de Janeiro e de São Paulo, comparando candidaturas e desempenho eleitoral, ilustram que nos pleitos proporcionais de 2016 e 2020 houve uma grande diferença entre o número de mulheres candidatas e o de eleitas. Na cidade do Rio de Janeiro (Tabela 1), em 2016, 32,8% dos candidatos eram mulheres, mas elas ficaram com apenas 13,7% das cadeiras. Em 2020, o percentual de candidaturas foi semelhante ao do período anterior (33,4%), enquanto o número de cadeiras conquistadas pelas mulheres aumentou para 19,6%. Na cidade de São Paulo (Tabela 2), a tendência se repete, tanto o número de candidatas quanto o de eleitas aumentaram de uma eleição para outra, ainda que de maneira menos expressiva. Tais resultados revelam que as eleições para as duas câmaras municipais acompanharam a dinâmica nacional, no que diz respeito ao percentual de candidaturas femininas. A partir dos dados das eleições de todas as câmaras municipais do Brasil entre 2004-2012, Sacchet (2013) revela que o percentual máximo de candidaturas femininas foi de 31,9% nesse período. Por outro lado, o que diferencia as eleições de 2020 das demais é o aumento de mulheres eleitas para vereador na cidade do Rio de Janeiro. A conquista de 19,6% das cadeiras pelas mulheres representa o incremento de 5,9% na representação feminina, se a referência é o percentual de eleitas em 2016.

Tabela 1: Candidatos(as) e eleitos(as) para vereador nas eleições 2016 e 2020 - Rio de Janeiro

		Mulheres		Homens		Total	
		N	%	N	%	N	%
2016	Candidatos	427	32,8	875	67,2	1302	100,0
	Eleitos	7	13,7	44	86,3	51	100,0
2020	Candidatos	465	33,4	927	66,6	1392	100,0
	Eleitos	10	19,6	41	80,4	51	100,0

Fonte: Repositório de dados eleitorais do TSE.

[2] Me refiro às decisões judiciais do STF (ADI nº 5617/DF) e do TSE (Consulta nº 0600252-18/DF).

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Tabela 2: Candidatos(as) e eleitos(as) para vereador nas eleições 2016 e 2020 - São Paulo

		Mulheres		Homens		Total	
		N	%	N	%	N	%
2016	Candidatos	358	31,5	780	68,5	1138	100,0
	Eleitos	11	20,0	44	80,0	55	100,0
2020	Candidatos	534	34,6	1008	65,4	1542	100,0
	Eleitos	13	23,6	42	76,4	55	100,0

Fonte: Repositório de dados eleitorais do TSE.

Como foi visto, a eleição de mais mulheres para posições legislativas depende de inúmeros fatores, sendo o mais básico dentre eles o cumprimento das cotas pelos partidos políticos. As eleições municipais de 2020 exigiram, justamente, que cada partido político preenchesse, no mínimo, 30% de suas listas com candidaturas femininas. No entanto, a partir da Tabela 3, é possível verificar que cinco partidos (PL, PROS, PSC, PTC e Solidariedade) não cumpriram com a exigência ao lançarem entre 19% e 29,8% de candidaturas femininas para a câmara municipal do Rio de Janeiro. A justificativa para tal escolha pode estar na linha ideológica dessas legendas. É possível que o fato de elas serem de direita e apresentarem agendas mais conservadoras diminuiu as chances de mais mulheres serem selecionadas como candidatas. Trata-se de uma realidade diferente daquela de 2016, na qual quatro partidos (PHS, PMN, PSDB e PT)[3], com orientação ideológica e nível de institucionalização diversos, não cumpriram com a cota.

Tabela 3: Candidato(as) e eleitos(as) para vereador por partidos políticos (Eleições 2020) – Rio de Janeiro

Partidos		Mulheres		Homens		Total	
		N	%	N	%	N	%
AVANTE	Candidatos	22	39,3	34	60,7	56	100,0
	Eleitos	0	0,0	3	100,0	3	100,0
CIDADANIA	Candidatos	21	38,9	33	61,1	54	100,0
	Eleitos	1	50,0	1	50,0	2	100,0
DC	Candidatos	23	34,3	44	65,7	67	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
DEM	Candidatos	24	40,0	36	60,0	60	100,0
	Eleitos	2	28,6	5	71,4	7	100,0
MDB	Candidatos	12	31,6	26	68,4	38	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
NOVO	Candidatos	12	34,3	23	65,7	35	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PATRIOTA	Candidatos	23	38,3	37	61,7	60	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PDT	Candidatos	23	33,8	45	66,2	68	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PL	Candidatos	17	29,8	40	70,2	57	100,0
	Eleitos	0	0,0	2	100,0	2	100,0
PMN	Candidatos	15	41,7	21	58,3	36	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PODEMOS	Candidatos	17	50,0	17	50,0	34	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PP	Candidatos	13	37,1	22	62,9	35	100,0
	Eleitos	1	50,0	1	50,0	2	100,0

[3] Na ocasião, o PHS lançou 17,5%, o PMN lançou 15,9%, o PSDB lançou 26,3% e o PT lançou 18,5% de candidaturas femininas.

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PROS	Candidatos	4	19,0	17	81,0	21	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PSC	Candidatos	19	29,2	46	70,8	65	100,0
	Eleitos	1	50,0	1	50,0	2	100,0
PSD	Candidatos	13	35,1	24	64,9	37	100,0
	Eleitos	0	0,0	3	100,0	3	100,0
PSL	Candidatos	22	40,7	32	59,3	54	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PSOL	Candidatos	16	39,0	25	61,0	41	100,0
	Eleitos	2	28,6	5	71,4	7	100,0
PT	Candidatos	18	36,7	31	63,3	49	100,0
	Eleitos	2	66,7	1	33,3	3	100,0
PTB	Candidatos	25	31,6	54	68,4	79	100,0
	Eleitos	0	0,0	2	100,0	2	100,0
PTC	Candidatos	17	27,0	46	73,0	63	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
REPUBLICANOS	Candidatos	20	30,8	45	69,2	65	100,0
	Eleitos	1	14,3	6	85,7	7	100,0
SOLIDARIEDADE	Candidatos	8	24,2	25	75,8	33	100,0
	Eleitos	0	0,0	1	100,0	1	100,0

Fonte: Repositório de dados eleitorais do TSE.

Já na cidade de São Paulo, as cotas foram amplamente aplicadas em 2020. De acordo com a Tabela 4, apenas dois partidos (PSC e PSDB) apresentaram percentuais de candidaturas femininas abaixo dos 30%. Em 2016, o cenário era bastante diferente com 6 partidos políticos (DEM, PP, PSB, PSC, PTN e PV[4]) descumprindo a exigência. Dessa forma, os dados apontam que a nova regra que orienta a aplicação das cotas não explica o número de mulheres eleitas, visto que, no cenário carioca, o percentual de eleitas sofreu oscilações positivas, mesmo quando houve o aumento no número de partidos que não cumpriram a cota e, no cenário paulista, se deu o contrário. Nesse último caso, o baixo incremento no número de mulheres eleitas foi acompanhado pelo cumprimento da exigência pela maioria dos partidos políticos.

Tabela 4: Candidato(as) e eleitos(as) por partidos políticos (Eleições 2020) - São Paulo

Partidos		Mulher		Homem		Total	
		N	%	N	%	N	%
DEM	Candidatos	26	41,9	36	58,1	62	100,0
	Eleitos	1	16,7	5	83,3	6	100,0
MDB	Candidatos	26	38,2	42	61,8	68	100,0
	Eleitos	0	0,0	3	100,0	3	100,0
NOVO	Candidatos	12	35,3	22	64,7	34	100,0
	Eleitos	2	100,0	0	0,0	2	100,0
PATRIOTA	Candidatos	13	37,1	22	62,9	35	100,0
	Eleitos	0	0,0	3	100,0	3	100,0
PL	Candidatos	25	30,9	56	69,1	81	100,0
	Eleitos	0	0,0	2	100,0	2	100,0

[4] Na ocasião, o DEM lançou 21,4%, o PP lançou 18,2%, o PSB lançou 7,7%, o PSC lançou 16,7%, o PTN lançou 29,6% e o PV lançou 28,6% de candidaturas femininas.

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PODEMOS	Candidatos	26	32,9	53	67,1	79	100,0
	Eleitos	1	33,3	2	66,7	3	100,0
PP	Candidatos	9	30,0	21	70,0	30	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PSB	Candidatos	24	32,0	51	68,0	75	100,0
	Eleitos	0	0,0	2	100,0	2	100,0
PSC	Candidatos	20	28,6	50	71,4	70	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PSD	Candidatos	23	35,4	42	64,6	65	100,0
	Eleitos	1	33,3	2	66,7	3	100,0
PSDB	Candidatos	14	29,2	34	70,8	48	100,0
	Eleitos	2	25,0	6	75,0	8	100,0
PSL	Candidatos	22	32,4	46	67,6	68	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PSOL	Candidatos	21	41,2	30	58,8	51	100,0
	Eleitos	4	66,7	2	33,3	6	100,0
PT	Candidatos	25	30,1	58	69,9	83	100,0
	Eleitos	1	12,5	7	87,5	8	100,0
PTB	Candidatos	18	40,0	27	60,0	45	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
PV	Candidatos	20	34,5	38	65,5	58	100,0
	Eleitos	0	0,0	1	100,0	1	100,0
REPUBLICANOS	Candidatos	26	31,0	58	69,0	84	100,0
	Eleitos	1	25,0	3	75,0	4	100,0

Fonte: Repositório de dados eleitorais do TSE.

Se a obrigatoriedade imposta pela lei de cotas parece não solucionar a questão da sub-representação das mulheres, há outros elementos que podem interferir no desempenho relativo das candidaturas femininas, como o montante de recursos disponíveis nas competições eleitorais. Os dados das Tabelas 5 e 6 demonstram que o percentual das receitas de campanha das candidatas tem sido significativamente inferior ao dos candidatos, ainda que em 2020 tenha ocorrido uma distribuição mais proporcional dos recursos. Em 2016, as candidatas e eleitas na cidade do Rio de Janeiro concentraram, respectivamente, apenas 16,4% e 15,3% dos recursos. Em 2020, com as novas regras de financiamento de campanhas, as candidatas e eleitas arrecadaram, respectivamente, 29,7% e 27,4% das receitas. Em São Paulo, os percentuais são muito similares. Em 2016, as candidatas e eleitas dispunham, respectivamente, de 17,5% e 18,7% da totalidade dos recursos. Esses percentuais aumentaram em 2020, mas não chegaram aos 50%.

Tabela 5: Recursos dos candidatos(as) e eleitos(as) para vereador nas eleições de 2016 e 2020 – Rio de Janeiro

		Mulheres		Homens		Total	
		N	%	N	%	N	%
2016	Candidatos	R$ 4.388.743,00	16,4	R$ 22.366.909,00	83,6	R$ 26.755.652,00	100,0
	Eleitos	R$ 1.696.954,00	15,3	R$ 9.388.723,00	84,7	R$ 11.085.677,00	100,0
2020	Candidatos	R$ 10.678.478,00	29,7	R$ 25.322.957,00	70,3	R$ 36.001.435,00	100,0
	Eleitos	R$ 3.551.133,00	27,4	R$ 9.430.077,00	72,6	R$ 12.981.210,00	100,0

Fonte: Repositório de dados eleitorais do TSE.

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Tabela 6: Recursos dos candidatos(as) e eleitos(as) a vereadores nas eleições de 2016 e 2020- São Paulo

		Mulheres		Homens		Total	
		N	%	N	%	N	%
2016	Candidatos	R$ 7.557.987,00	17,5	R$ 35.589.931,00	82,5	R$ 43.147.918,00	100,0
	Eleitos	R$ 4.078.020,00	18,7	R$ 17.750.605,00	81,3	R$ 21.828.625,00	100,0
2020	Candidatos	R$ 25.653.778,00	31,7	R$ 55.168.808,00	68,3	R$ 80.822.586,00	100,0
	Eleitos	R$ 5.011.677,00	22,0	R$ 17.725.037,00	78,0	R$ 22.736.714,00	100,0

Fonte: Repositório de dados eleitorais do TSE.

Tabela 7: Recursos dos candidatos(as) para vereador nas eleições de 2016 e 2020 – Rio de Janeiro

		Mulheres		Homens		Total	
		N	%	N	%	N	%
2016	Fundo Partidário	R$ 1.017.823,00	20,3	R$ 4.000.563,00	79,7	R$ 5.018.386,00	100,0
	Outros Recursos	R$ 3.370.920,00	15,5	R$ 18.366.346,00	84,5	R$ 21.737.266,00	100,0
2020	FEFC	R$ 6.150.376,00	33,1	R$ 12.430.763,00	66,9	R$ 18.581.139,00	100,0
	Fundo Partidário	R$ 1.319.904,00	55,1	R$ 1.073.430,00	44,9	R$ 2.393.334,00	100,0
	Outros Recursos	R$ 3.208.197,00	21,3	R$ 11.818.764,00	78,7	R$ 15.026.961,00	100,0

Fonte: Repositório de dados eleitorais do TSE.

O aumento do financiamento das campanhas femininas deve-se, majoritariamente, à distribuição do FEFC e do Fundo Partidário. De acordo com a Tabela 7, 33,1% do Fundo Especial e 55,1% do Fundo Partidário foram reservados às mulheres nas eleições municipais do Rio de Janeiro em 2020. Por outro lado, quando se trata dos "Outros Recursos", que incluem doações de pessoas físicas, apenas 21,3% desse montante contribuiu com as candidaturas femininas. Em São Paulo, ainda que o montante total seja mais elevado, ocorre o mesmo. Mais da metade do Fundo Partidário e 34,9% do FEFC são reservados às mulheres, enquanto a maior parte dos "Outros recursos" são direcionados aos homens.

Tabela 8: Recursos dos candidatos(as) a vereador nas eleições de 2016 e 2020 - São Paulo

		Mulher		Homem		Total	
		N	%	N	%	N	%
2016	Fundo Partidário	R$ 3.389.083,00	30,1	R$ 7.870.735,00	69,9	R$ 11.259.818,00	100,0
	Outros Recursos	R$ 4.168.904,00	13,1	R$ 27.719.196,00	86,9	R$ 31.888.100,00	100,0
2020	FEFC	R$ 16.498.435,00	34,9	R$ 30.751.326,00	65,1	R$ 47.249.761,00	100,0
	Fundo Partidário	R$ 2.166.437,00	57,5	R$ 1.602.064,00	42,5	R$ 3.768.501,00	100,0
	Outros Recursos	R$ 6.988.907,00	23,4	R$ 22.815.418,00	76,6	R$ 29.804.325,00	100,0

Fonte: Repositório de dados eleitorais do TSE.

Todos esses resultados indicam que o sucesso eleitoral das mulheres nas eleições de 2020 pode estar relacionado com o maior apoio financeiro. No entanto, a desigualdade entre as receitas de homens e mulheres persiste e se deve, em grande medida, à distribuição dos recursos privados. Em estudos anteriores sobre diferentes pleitos eleitorais e níveis de disputas para cadeiras legislativas (do local ao nacional), já foi constatado que as mulheres não apenas têm arrecadação média de campanha substancialmente inferior à dos homens, mas também recebem menos apoio financeiro da iniciativa privada (SACCHET e SPECK, 2012). Dessa forma, os entraves da representação feminina permanecem dialogando com o predomínio dos recursos privados e a concentração da maior parte deles nas candidaturas masculinas.

V. Conclusões

Este artigo analisou o desempenho eleitoral das mulheres nas eleições municipais de 2020 na cidade do Rio de Janeiro e de São Paulo. Os dados apresentados sobre as candidaturas femininas e o seu desempenho eleitoral demonstram que, mesmo com o fim das coligações para cargos proporcionais e a, consequente, obrigatoriedade do cumprimento das cotas de maneira individual pelos partidos, não houve um aumento substantivo das candidaturas femininas. Em relação ao número de mulheres eleitas, ocorreu um

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acréscimo que não parece estar relacionado com a possibilidade de mais mulheres integrarem as listas partidárias, tendo em conta o número de candidatas bastante semelhante ao de períodos anteriores e a taxa de cumprimento/descumprimento da exigência pelos partidos políticos. A razão para o sucesso eleitoral das mulheres em 2020 pode estar associada com o aumento dos recursos direcionados às candidaturas femininas. O Fundo Partidário e o FEFC incrementaram a receita das mulheres, ainda que não tenham equalizado as condições de disputa entre os sexos. Esses resultados, por descreverem dois contextos particulares das eleições para a câmara dos vereadores, exigem que a análise seja extravasada e inclua outros municípios. Só assim será possível verificar se essas conclusões se referem a uma tendência nacional.

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Border and Textuality in the Mediterranean: United States and Spain in Transition towards Democracy under the Cold War

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Abstract- The Political Transition catalyzed a change process in the Spanish society that would lead to its international standardization. The international dimension was the key to understand the nature of the Spanish Policy concerning the Mediterranean Area, its close southern periphery, and the guidelines of the Modernization in a European and Western sense. The reflection about the meaning of the frontier in the historical and cultural background of the United States of America and Spain according to the Mediterranean world, is analyzed from these two approaches: on the one hand, the challenge and the debate about the Modernity and Modernization throughout the 20th century in the special context of the Political Transition; and, on the other hand, the different experiences that were converging from Washington and Madrid around the Mediterranean as a frontier in term of security.

Keywords: US foreign policy, spanish foreign policy, democratic transition, european integration, and mediterranean history.

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Border and Textuality in the Mediterranean: United States and Spain in Transition towards Democracy under the Cold War[1]

José Luis Neila Hernández

Abstract- **The Political Transition catalyzed a change process in the Spanish society that would lead to its international standardization. The international dimension was the key to understand the nature of the Spanish Policy concerning the Mediterranean Area, its close southern periphery, and the guidelines of the Modernization in a European and Western sense. The reflection about the meaning of the frontier in the historical and cultural background of the United States of America and Spain according to the Mediterranean world, is analyzed from these two approaches: on the one hand, the challenge and the debate about the Modernity and Modernization throughout the 20th century in the special context of the Political Transition; and, on the other hand, the different experiences that were converging from Washington and Madrid around the Mediterranean as a frontier in term of security.**

Keywords: US foreign policy, spanish foreign policy, democratic transition, european integration, and mediterranean history.

Introduction

The political transition catalyzed a dynamic of change processes, in the whole of Spanish society, in order to create a "complex western, democratic and pluralistic system"[2]. The opening of borders accelerated the process of Europeanization and Americanization of the productive process, of the structure and social habits, of the forms and construction of knowledge, besides the homologation of the practice and the conception of the international relations.

The international dimension was an indispensable chapter of the process to contextualize on the long-term plan the nature of Spanish policy towards the Mediterranean and the guidelines of modernization in a Europeanist and westernizing sense. This process would end by closing the modernizing and regenerating cycle with which the twentieth century began.

From these preliminary considerations emerges the objective of the present work the analysis of the textual meshes derived from the Mediterranean and semi-peripheral condition of Spain, and consequently border, on a temporary framework in which the Cold War system would transit from the Distension to the resurgence of discourse and containment practices whose epilogue would trigger the end of the international system that would emanate from the Second World War.

The reflection in the heat of the polyhedral meaning of the border in the historical and cultural baggage of the United States and Spain, from the coordinates of the Mediterranean world, we project it in two discursive universes in which we believe that the notion of frontier illustrates and provokes suggestive scenarios of reflection: on the one hand, the crossroads that cover a good part of Spain's trajectory during the century in the light of the debates and the challenge of modernity and modernization, from its two priority vectors - European modernity in terms of Europeanization and the paradigm of modernity illuminated from the United States to the thread of Americanization and the symbolism of Manifest Destiny; and on the other, the different planes that converge from Washington and Madrid around the Mediterranean as a border from the security prism.

The notion of the border from its polysemic universe not only refers to a purely geopolitical and geoeconomic conceptions, but is projected in the symbolic space as another framework of the culture of knowledge. A crucial dimension in the construction of imaginary and identities and whose colonial potential in the connection between knowledge and power has been highlighted by authors such as Walter D. Mignolo when reflecting on the border thinking[3] or Boaventura de Sousa Santos when inquiring about the abysmal lines in Western thought.[4]

I. Homologation and Standardization in Spain from the Secular Textures of its Europeanization and the Americanization Process

The American century and the hegemony of the United States would result in a restatement of modernity. From the end of the 19th century and until World War II the civilizing mission in its European version would be reformulated around the United States when it started its rise to great world power, rearticulating around the Manifest Destiny and all the mythology of the border. After the Second World War it would be "Development"

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and "Modernization" that took over, relegating the civilizing mission to a secondary place.

The hegemonic place of the United States at the end of the cycle of world wars would connect with American exceptionalism. A particularity that, in the words of Paul Isbell, has stimulated the impression, even the certainty, that "God has chosen them to bring democracy to the people of the world, having been distinguished by the hand of God himself from among the preceding world powers precisely for its democratic faith and for its emergence as the only world superpower that, supposedly, does not exploit a colonial empire"[5].

The slogan of Development - understood in its economic and political dimension - connected with the New Deal substrate, the border promise of political and economic democracy on which the political economy of the informal American empire would be legitimized from the preliminaries of the Cold War.

The process of Americanization of knowledge and its connections with the exercise of power would enter a critical phase after World War II. The divisions by areas in the social sciences derived intellectually from the dominant liberal ideology in the 19th century that held that the State and the market, politics and the economy, were analytically separate domains. But there were many realities that they did not fit entirely within the scope of the market or the State, they would be included in a residual miscellany, sociology. Finally, two disciplines would be reserved for the study of the relegated world of modernity: Orientalism and anthropology[6].

This classic panorama would be radically transformed from the interwar period and, especially, after the Second World War according to the Americanization of the knowledge map. This division of labor would disappear and, instead, all these disciplines of social knowledge would universalize its object of study. The configuration of this knowledge in the Areas Studies in the American academic world would illustrate its connection with the global power needs of the new hegemonic power[7].

Perhaps the discipline that best registered in the Anglo-Saxon field the extraordinary incidence of the analysis of Development and Modernization was that of economic theory after World War II. In the North American post-war academic and political circles, the central issue in economic thinking would revolve around growth. In this climate of optimism in which one of the most decisive cycles of economic growth and expansion of the last two centuries began, Josep Fontana argues, in "apply to the whole world" those advances with the purpose of "Get backward countries out of their poverty and bring them to the fullness of development'." A slogan on which American propaganda would be overturned in the framework of the Cold War[8].

In the specific field of the Mediterranean world, as a border scenario, the American wedge Orientalism after World War II would illustrate a pragmatic profile from the keys of the theory of modernization and the needs of Containment. Until the Second World War, a situation in which the United States began to occupy the position that until that moment had been played by Great Britain and France on the periphery, had barely treasured an Orientalist experience. East, explicit Edward W. Saïd, became for the United States:

> (…) More than a religious question that it had been for centuries for Europe, it is an administrative and political question. The new social scientist and the new expert on whose shoulders the weight of orientalism would fall (...) In any case, the new Orientalist resumed hostile cultural attitudes and maintained them[9].

After World War II, peripheral interests of the United States would be strengthened and, in particular, in the Middle East and North Africa, where an important network of geostrategic resources was created. The progressive decline of the imperial presence of Great Britain and France would give way to the United States to "exercise its new imperial role." In the global strategy of Containment, cultural policy would play a leading role. It was in this context that an academic and institutional mesh on Orientalist studies would be established. The model, both for its strategic dimension and its "sensitivity to political and security issues," would be the Middle East Institute, founded in Washington in 1946. From this foundation a wide institutional and associationist mesh was created –such as the Middle East Association-, programs in various universities that would have the support of the Federal Administration but also of banks, oil companies, and multinationals[10].

Development and modernization emerged, argues Andrew Rotter, from the uncertainties and concerns of US administrations to deal with instability in the periphery, especially as the tide of decolonization went through the entire ancient imperial cartography. Washington would be involved in development policy as a fundamental part of the Containment -of the globalization of Containment. The development was intended to provide a long-term solution against communist contagion. But while the Containment underlined the obligations of the United States to defend freedom, development theory was inspired by the old American vision of appropriation or legitimization of the process of social change and in the survival of a sense of superiority over the dark-skinned peoples of the Third World. In practice, after that scientific discourse, they survived "The old ethnocentric platitudes, about uplift and regeneration formerly directed at the Philippines, China, and Mexico ..."[11].

In a global sense Alan P. Dobson and Steve Marsh ironically influence how support for conservative dictators in Latin America and other peripheral spaces as a dam of containment to communism and as a

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priority of the principle of national security, it would fossilize socio-economic and political structures, hindering the goals that were preached and foreseen in the development models sponsored by the United States from academic and political centers. "In the US experience in the Western Hemisphere, it would appear that in the pursuit of hegemonic control, the means came to undermine the very values and institutions that hegemonic leadership was intended to preserve for the system."[12] This analysis and this anti-communist rhetoric were embedded in the politics of Containment. Still, it concealed a rejection of any political formula, and not only in Latin America, but that could also question and jeopardize the economic and geostrategic interests of the United States. As in other peripheral scenarios, the successive US administrations did not conceptualize the problems of those border spaces in Central-Periphery terms but essentially from the dialectic of East-West bipolarity.[13]

The debate around modernity and tradition that runs through the Spanish 20th century flows around the Casticism-Europeanization dialectic. Still, the American century will permeate the language and practices of modernization from the keys of Americanization. In the tenure of time between centuries, the Spanish-American war would deeply determine the images of the United States between Americanization and anti-American sentiments. For an enlightened and informed minority of Spaniards, the American political and legal model presented great appeal. The critical circles towards Catholic fundamentalism and oligarchic power, among them some of the most prominent leaders of federal republicanism - the case of Pi and Margall - or intellectuals such as Rafael María Labra, would weave a positive image of the American socio-political model.[14]

In the context of the Spanish-American war, the negative and accusatory image reflected in the press, American travel books, and textbooks were coated, in turn, of a moralizing zeal to the extent that Spain was proposed as a countermodel. These perceptions would be made explicit about what Richard Kagan would have defined as the "Prescott paradigm", the basis of the image of Spain in the United States for a long time, according to which Spain appeared as a countermodel and as an antithesis to values and the position of the North American Republic. "America was the future - republican, enterprising, rational; while Spain - monarchical, indolent, fanatic - represented the past."[15]

In Spain, as in the rest of Europe, regardless of rhythm and intensity, the first third of the century will show the first symptoms in the Americanization process. A term that we use, in the sense in which Dominique Barjot puts it when translating:

> (...) a deep cultural reality, the generalization of a way of life, of a civilization born on the other side of the Atlantic by combining of multiple contributions, mostly from Europe. This Americanization has its origin in the transfer to Western Europe of production methods, consumption models, ways of life, socio-cultural practices, and thinking schemes born or adopted originally in the United States.[16]

The reflection on the problem of Spain and the search for solutions to its secular delay, tragically portrayed in the crisis of 98, would be channeled from the cultural atmosphere of Regenerationism from formulations that would become from Casticism to Europeanization. The modernity embodied by the United States would be spun as an edge of the latter in the sense of promoting an opening for models on which to inspire and modulate modernization.

The extraversion of the United States, especially in the twentieth century, would in turn encourage anti-American reactions whose cultural components would be inseparable from local and historical circumstances. Anti-Americanism has been determined in Spain by the very historical nature of Spanish-American relations and by the emerging role acquired by the United States, from the eruption of American power to transit towards the twentieth century until its hegemonic rise after the cycle of world wars.

Spanish anti-Americanism in the course of the twentieth century, as Alessandro Seregni emphasizes, has been modulated according to two traditions of political culture, "Two sets (or families)", which overflow the perimeter of the policy itself: one referring to the right and the other, to the left. The first, which would integrate Falangists, nationalists, traditionalists, and fundamentalists Catholics and monarchists, among others, would be nurtured, especially during the dictatorship of General Franco, of values in the antipodes of the identity signs of the United States, such as the contempt of democracy and liberalism, aversion to capitalism, hatred of Protestantism or anti-Masonic obsession, in addition to a nationalism wounded by common history whose nodal point would be the war of 1898. On the other hand, the anti-American discourse of the left will crystallize basically after the signing of the Pact with the United States in 1953 and the support is given to the dictatorship of General Franco. The American support to Franco would polarize on some of them already preexisting elements:

> (...) there were factors that could contribute to developing, then, to influence the evolution of left-wing anti-Americanism. In this sense, the generalized impulse towards the market economy and the capitalist system can be identified as the primary impulse (...) sustained by socialist thinking and, in different ways, by Marxist doctrine. A second motivation can be found in the strongly hostile and critical attitude maintained by the communist parties of Western countries concerning the American universe (...) A third motivation could be found in the third-world and anti-imperialist attitudes typical of a part of the left, at least since the 1970s.[17]

Since the signing of the Spanish-American secret Pacts in 1953, the perception of the past, from a

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retrospective level, has been -in the opinion of Antonio Niño- object of interpretation, at least, from two perspectives: from the prism of the Atlantists and the panoramic view of the Europeans. From the first approach perspective, the Atlantists, the conclusion of those pacts should not be interpreted as much as a lifeguard "To which the Franco dictatorship was seized to prolong its existence" but as "a strategic option supported by deeper reasons (...) and successful in the long term, according to the evolution that the international system has subsequently followed". Franco, not consciously, would have introduced "in the country the Trojan horse, through development and modernization," creating the "conditions that ended up undermining its authoritarian regime" and facilitating "its replacement by a modern democracy." The argument would thus be rooted in the Manifest Destiny tradition, so that the subtle intervention of the United States in Spain, over three decades, would have been responsible for creating the ideal conditions so that the Spanish people could, later, achieve what they were deprived of "because of their secular backwardness."

On the other hand, the perspective argued by the Europeans does not channel the reflection from the effects of the historical process but the panorama of the "purposes, intentions and actions effectively undertaken by the actors." Consequently, the responsibility arose if there had been "the US foreign policy in the subsistence of the Franco regime." Successive US administrations would have been fundamentally interested in achieving their central objectives, the use of joint military installations, and "incorporating Spain into the Western defensive system." It is beyond doubt that the democratization of the regime, "If it had occurred spontaneously, it would have had some advantages for American interests, it would have favored the ideological cohesion of the Western side and the veto on Spain's entry into NATO could have been lifted." However, "a decision was never taken to actively enhance the democratic evolution of Spain because this would have jeopardized the supreme objective of guaranteeing the collaboration of the regime for the good use of the bases." The strategic interest in ensuring the use of military bases would have marginalized interest in liberalizing the Franco regime for greater coherence and ideological cohesion in Western Europe. When the transition process began, the attitude of the American institutions was less active and determined than the actions of Western European governments. In sum:

> The Europeanists point out, in this regard, that economic cooperation and the promotion of exchanges of all kinds, such as those carried out by democratic Europe with Franco's Spain in its last stage, was not incompatible with political and strategic isolation very different from the alliance and the support that the Governments of the United States provided simultaneously to the dictatorship. This is the difference in the attitude of the Common Market Europe, which tolerated the Franco regime while encouraging exchanges with Spanish society, and the attitude of Washington, which openly allied itself with the dictator and cooperated militarily with him.[18]

This historical baggage and this wealth of experiences, images, and perceptions that have nourished the anti-Americanism of both "right" and "left" would determine, together with the attitude and gestures of the US administrations, the judgments and prejudices towards the United States in the Spanish political and opinion media during the process of transition and consolidation of democracy.

By these precedents and the convulsive situation on the Mediterranean flank of the Western security system, the departure of the American presence in Libya in 1970 and the concern expressed by the Revolution in Portugal in 1974 emphasized the geopolitical priority of the Iberian space from the American perspective. The US ambassador in Spain from 1975 to 1978, Wells Stabler, confessed that the United States "did not do much" to promote some kind of political change in post-Franco Spain. Their concern revolved primarily around the stability of their geostrategic priorities. In fact, on January 24, 1976, the new Hispanic-American Treaty of friendship and cooperation crystallized - not a simple agreement as it had been until then.

In this logic, we should interpret the comment of the Secretary of State, Alexander Haig, by affirming the day after the frustrated coup attempt of State of February 23, 1981, which was "an internal Spanish question." A gesture that contrasts with the support for democracy shown by the Western European states and the statement of the American congressmen themselves supporting Spanish democracy and indirectly recalling the Secretary of State's untimely comment[19].

From the prism of the peripheral projection of Spain towards the South in geocultural terms, it would be determined by its orientalist luggage. The perception and the imaginary built around the southern border, the historical trace of Islam on the peninsula, and the peripheral projection of the coloniality of power refers to Orientalism. The Spanish case presents specific features highlighted by Edward W. Said. In Spain, the imperial dimension -the one that looks outside- that undoubtedly exists and nourishes much of the culture emanated from Orientalism is interwoven by the historical fact that "Islam and Spanish culture inhabit each other instead of confronting belligerence."[20]

This dual dimension of Orientalism in the Spanish case would move the sphere of cultural production and even political culture towards the East - in particular towards the Arab world and the Mediterranean. The "Spanish colonial experience in northwestern Africa had a limited impact on the development of Arab studies, which remained focused on the study of their "domestic East'." Unlike France and

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Great Britain, the "Spanish university Arabists did not actively engage in the colonial adventure." It would be the Africanists who, linked to the projection towards the nearby Mediterranean-African overseas, would become the architects of the production of most of the studies on North Africa -basically Morocco and Western Sahara.[21] The official attitude of the Spanish administration influenced, in the opinion of Vicente Moga Romero, the split between "academic Arabism and more militant Africanism with an ideological wedge focused on ethnic and religious determinism."[22]

Africanism, as the term began to be used in the mid-19th century, would be referred, as Federico Villalobos argues, to those who, in their own ability or within the framework of institutions or opinion groups, claimed "the existence of vital interests for Spain south of the Strait of Gibraltar-strategic, economic, historical and even moral - and advocated decisive action, both by the state and by the particular initiative, in defense and promotion of such interests."[23]

II. Security and Border Textualities in the Mediterranean from Washington and Madrid

The decline of the Regime, and the new episode of the decolonization crisis in the light of the outcome of the dossier of Western Sahara, would become in full distension among the superpowers. However, the Mediterranean would be shaken by the changes that happened in Libya with the advent to power of Gadaffi in September of 1969, and the Soviet presence in Libya and Algeria, the Arab-Israeli war of Yom Kippur in 1973 - and the processes of transition to democracy that would phase it in Mediterranean Europe and south-Greece, Portugal, and Spain-. The Mediterranean, however, would remain a secondary scenario throughout the Cold War in terms of the perception of Europe's security,[24] despite its growing importance for the protection of the southern flank of the Atlantic Alliance.

The Détente, says Thomas G. Paterson, would determine the end of the period of the predominance of the United States based on its nuclear superiority and incontestable economic supremacy, on that horizon of economic cycle change. The Détente seemed to restore control of the great powers and to reassure them of their control over their areas of influence and to better coop the challenges of the Third World.[25]

The Nixon Administration, embarking on the path of Détente for pragmatic and realistic motivations, would explore its review of the rigidities of Containment. This would involve a more conscious approach to the complexity of the international system, the relative decline of the United States, and a diplomatic approach based on the logic of the balance of power that would make it possible to distinguish between ideological and geopolitical threats.

In the early years of the Nixon Administration, the problems of the Third World, except the Middle East -amid the oil crisis- would occupy a secondary place in the presidential foreign policy agenda. Richard Nixon and Henry Kissinger would be more interested in preserving American spheres of influence in the third world than in the economic needs of their development.[26]

After the resignation of Richard Nixon, the policy of Détente Gerald Ford would be subjected to the pressure of the group of falcons that made up part of its Administration and the control of the Congress on the development of foreign policy. These difficulties would become visible in a context of turmoil in the Mediterranean periphery shaken by the Triumph of Gadaffi and the Green Revolution in Libya, the Arab-Israeli war, and the pericycle of the Mediterranean European dictatorships-Greece, Portugal and Spain - allied with Washington.

Spain was embarked in a time of deep uncertainty. In the explicit context of the General Franco Regime, its end would take place in the middle of a deep internal crisis, international pressure for the policy of repression, and a new episode of the southern threat in the wake of the colonial crisis in Spanish Sahara and the improvised and misguided solution of the Madrid Accords of 1975. Amid this convulsive panorama in the Mediterranean, the United States was embarking on negotiating its security status in Spain, whose primary objective was to preserve the operability and use of its military bases. The North American Administration, says Encarnación Lemus, would maintain the centrality of its support for Don Juan Carlos, but without neglecting the full support for the "Francoist official." In the document that President Ford received to prepare his conversation with Arias Navarro on August 1 in Helsinki, it was stated that:

> We have two main interests: firstly, and in the short term, we want to renew the pact of friendship and Cooperation, which expires in September, so that we can continue to use our bases to support our forces in Europe and the Mediterranean. Secondly, in the longer term, we want to preserve the orientation of Spain in favor of the United States and the West during the post-Franco period.[27]

Precisely the Portuguese question would be on the agenda of Gerald Ford and Henry Kissinger's visit to Madrid to convince General Franco to intervene in Portugal and stop the revolutionary process, but the dictator was persuaded that nothing would happen in Portugal and you had to let time pass.[28] The great enemy from the perspective of Henry Kissinger and the State Department in Western Europe were the communist parties and the fear that they might come to power. The role of the communist and socialist parties

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and their allied trade unions was a matter of concern to American diplomacy and its intention towards the transition processes in the Iberian Peninsula. The attitude of the American administration, as Encarnación Lemus well synthesizes, towards Iberian transitions:

> (...) continued to demand from its partners that they did not assign urgency to the reforms; to some extent, the Americans wanted to control the pace of liberalization. Everyone agreed that change was necessary; the divergence of opinion inside and outside of Spain lay in how and when. The American objective pursued peninsular stability, and looked from fear at the Communist force in Portugal and Italy. On the inside, he weighed the danger of a conservative involution if the changes arrived too quickly and in the face of these two eventualities, the same formula is always offered, to approach the transformation slowly and prudently.[29]

It should not be forgotten, as rightly points out the above-mentioned author, that the visit of Gerald Ford to Madrid, where he arrived on May 31, 1975, was in full debate about the European rejection of any express link between Spain and Western security and the American desire to reverse is animosity in order not to harm the budding negotiation for the maintenance of the US military facilities in Spain. An illustrative testimony of Washington's pragmatism would be the interview held at the American Embassy in Madrid between the head of the Legation, Stabler, and the leader of the Spanish Socialist Workers ' Party, Felipe González, on October 25, 1975, in the course of which he acknowledged that "our interests oblige us to deal with governments as they are and not as we would like them to be"[30].

After Gerald Ford's brief presidency, the triumph of the Democratic presidential candidate in the 1976 elections would bring James Earl Carter to the White House. His mandate would modulate a foreign policy and a style of détente that formally contrasted with the nature and discourse of equilibrium and the realpolitik of the previous administration. The style of the Carter administration's policy of détente, argues Jarel A. Rosati and James M. Scott, would be characterized by a relatively optimistic view of global change and a liberal internationalist orientation,[31] at whose discursive vanguard was the defense of human rights. Moral flag that would often conflict with the strategic priorities of the Cold War and the underlying dynamics of Containment.[32]

The events of 1979 in the wake of the Islamist revolution in Iran and the Soviet invasion of Afghanistan would be analyzed in geopolitical and historical terms by Zbginew Brzezinski, its national security adviser, in the light of the Soviet Union's desire to alter the balance in the Middle East.[33]. Both crises in the Middle East would overshadow a picture that would shift to the overall level of détente policy. Under the effects of the agitating events of 1979 in the Middle East, it would be Jimmy Carter, as Josep Fontana rightly argues, who would launch the reactivation of the Cold War. Containment returned from the ruins of détente, which always had powerful detractors in the United States.[34]

In that convulsive horizon, Republicans under the leadership of Ronald Wilson Reagan would reach the presidency in January 1981. In his political program, he presented himself as a man who would "restore" American historical values inside and outside the United States. On the international level, in the face of the drift of the 1970s, he promoted the restoration of moral strength. With his rhetoric, says Carmen de la Guardia, "he revived the fear of communism of the early years of the Cold War and insisted on intervening militarily where democracy would be in danger."[35] His political discourse captured the imagination of many Americans attracted by their optimistic, messianic, and voluntarist textuality in a self-sustaining way that would reverse the American decline - or at least self-perceived-and purge the Vietnam syndrome.

His foreign policy program would increase in the US military budget and insist on the need to install nuclear weapons in Europe. His most ambitious commitment would be articulated around the so-called Strategic Defense Initiative (SDI), announced by Ronald Reagan on March 23, 1983, which planned the creation of a special defensive system using nuclear missiles.

A fundamental dimension of the Containment of the new Administration would be projected in the determined support for anti-communists anywhere in the world. Ronald Reagan's Containment policy would show some reminiscences of the conception of Dwight Eisenhower and John Foster Dulles on the subject of liberalization and the notion of roll-back in peripheral mapping, but with a more extreme and ambitious staging[36].

In the light of the Containment and the desire to exorcise the memory of Vietnam, military interventions and undercover operations would intensify. An activity that would be projected throughout the geography of the Third World and that in the Mediterranean and the Muslim world it would have as scenarios the involvement in the war in Afghanistan supporting the Islamist guerrillas against the Soviet invasion, support for Iraq in the war against Iran, the pro-Israeli position maintained by the US administration during the Israeli invasion of southern Lebanon in 1982 or the air attack on Libya against the Gaddafi regime in 1986.

The Mediterranean, from Washington's perspective, would be seen during the Cold War as a peripheral and border space modulated from the premises of the Containment and security imperatives where multilateral strategies, channeled from NATO, would cohabit with bilateral strategies established with various Mediterranean basin states. A space in which cultures of shared security would overlap, with Europeans from the Atlantic and European institutions,

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and the premises of their policy towards the Middle East and the Arab-Muslim world.

Before the Second World War, American planners argues Noam Chomsky, sought to extend the Monroe Doctrine to the Middle East. Alexander Kirk, the US representative in Saudi Arabia, would say that only a stable world order under the "American system" would be possible since the United States would help "backward countries to help themselves so that they could lay the groundwork so as not to have to depend on others."[37]

The containment policy of the Truman Administration, argued by Alan P. Dobson and Steve Marsh, would bequeath three substantial contributions to US policy towards the Middle East. After the Second World War, peripheral interests of the United States would be strengthened and, in particular, in the Middle East and North Africa, where an important network of geostrategic resources was created. The progressive decline of the imperial presence of Great Britain and France would give way to the United States to "exercise its new imperial role".

At first, American politics, instead of being guided by ideological imperatives and considerations not necessarily related to the Cold War, did so by other types of more pragmatic and strategic keys, especially by economic interdependence between the Western world and the Middle East, especially because the fact that most of that oil coming from the Middle East was under the control of American oil companies.[38]

The Truman administration's second legacy in American politics in the region was its intervention on the question of the Palestinian Mandate. The Truman Administration helped the establishment and creation of Israel, but at a high cost, by harming the enmity of the Arab world and the emergence of a new problem, the Palestinian refugees. The privileged relationship of the United States with Israel eroded the efforts of US diplomacy to establish a system of regional collective security while promoting the good image of the Soviet Union to the Arab states.

Ultimately, the Truman administration would leave as a legacy a policy incapable of reconciling American rhetoric with its ambitions in the Middle East. After the postwar world, two threats against Western interests would be delineated: on the one hand, the direct intervention of the Soviet Union and, on the other hand, communist subversion from within those states or its eventual confluence with radical Arab nationalism, the triumph of which could lead to regimes opposed to the West. Washington, conclude Alan P. Dobson and Steve Marsh, tried to ride five horses simultaneously: promote their economic interests and extend their political influence, implement the containment policy, support the colonial powers, articulate a privileged relationship with Israel and show themselves as a defender of the Arab nationalist movements.[39]

President Dwight Eisenhower would continue the lines of the previous administration in the policy of Containment in the Middle East. The pragmatism with which they would act in the peripheral geography concerning the most assertive national movements -not necessarily Marxists or sympathizers of Marxism- would also be manifested in the Middle East by aligning themselves with the most conservative Nationalist forces, even if it represented the sacrifice of the moral and political values of the Republic and the violation of international law.

In the White House, his successor, John F. Kennedy, would be directed without much success towards the promotion of peace, the promotion of development –in connection with the developmental discourse of the new administration- and the cushioning of tensions between Israelis and Arabs. From Washington, attempts would be made to promote social and economic reforms and political modernization from Rabat to Tehran to prevent radical Muslims from falling under the influence of the Kremlin.[40]

In the course of the 1960s, the US alignment with Israel became increasingly consistent. President Lyndon B. Johnson would accelerate the tightening of aid policies towards Arab countries. Less tolerant than John F. Kennedy towards Third World nationalism was convinced that the United States should do more to guarantee access to Middle East oil and reverse the Soviet incursion into Egypt and elsewhere in the "chaotic Arab world."

In the 1970s, the Nixon Administration's policy towards the Middle East would try to promote the strategy of two twin powers -Iran and Saudi Arabia- that would act as gendarmes of the Persian Gulf. On the other hand, the pro-Israeli orientation of US policy would become increasingly decisive. Three episodes –the 1973 Yom Kippur War, the 1979 Iranian Revolution, and the Soviet invasion of Afghanistan in the same year - would alter the precarious balance and plans of US policy in the Middle East, substantially affecting the strategic oil market.

In the 1980s the collapse of the triangular strategy of the United States –Israel, Saudi Arabia, and Iran- in the region would push for a review of US foreign policy in the Indian Ocean and the Persian Gulf. This revision would not only affect the readjustments of US policy with certain actors -such as Iraq and Iran that would embark on a war- but that the preservation of their strategic interests would lead to a growing military presence of the United States. At the end of the Cold War, the main change in US policy towards the Middle East would be that the United States had become the hegemonic power, at least in geopolitical terms.[41]

In the explicitly Spanish context and agitation in the Mediterranean basin during the 1970s, Spain, embarked on the process of political transition and the re-articulation of its foreign policy from democratic keys

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would have to face fundamental security decisions -in the Euro-Atlantic and Mediterranean framework- by the inertia of its international standardization in European and Western terms.

The foreign policy of the Governments of the *Unión de Centro Democrático* (UCD), and especially those chaired by Adolfo Suárez (1976-1981), gravitated around the search for new coordinates in line with the democratizing challenge. While it is true that the new foreign and security policy project began to be brushed, its guidelines would not be defined with precision until the advent of the *Partido Socialista Obrero Español* (PSOE) in 1982, whose realistic turn would eventually fully incardinate Spain in Europe and the West. A process that is well known for historiography and that we have dealt with in other studies and to which we make a superficial approach from these pages[42].

In the reception speech to the Royal Academy of Moral and Political Sciences of the ex-president of the Government Leopoldo Calvo Sotelo, delivered on November 16, 2005, entitled precisely "On the external transition," he returned to the international exceptionalism of Spain to the time to face the return of Spain to the international stage, as one of the factors that would revolve around the controversy of the Atlantic anchorage of Spain. A path not alien to the controversy:

> Some of the positions contrary to Spain's entry into the Atlantic Alliance suffered, perhaps not consciously, from lack of realism and lack of humility. For example those who advocated that Spain not be incorporated into any of the Eastern and Western blocs, in force then, and preferred that it be incorporated into the group of the non-aligned, among which it could achieve an eminent position[43].

Referring to this last reference to the attitudes promoted by the PSOE, neutralist fickleness was not a space claimed only from the most progressive circles but also formed part of the corollary of options and lines of action inherited from the regime of General Franco and who made an appearance in those early years, of the Transition.

The external dimension of the transition would be channeled into articulating a democratic foreign policy. Still, in those early years everything polarized around the enterprise of political change. The Transition and the construction of democracy in post-Franco Spain captured the interest of international actors, and the agenda of a foreign and security policy is still to be fully defined. The founder of the "Grupo Tácito" and second vice president of the Government of Adolfo Suárez, Alfonso Osorio, pointed it out in an interview conducted on January 13, 2010, in which he stated that "we must take into account that at the time I was in government our main and almost unique goal was the transition to democracy and the holding of elections."[44]

In this sense, any approach around the myth of consensus in foreign policy must start from the gravity of the dynamics of political consensus as a strategy for promoting of change and the transition to democracy. However, there were issues on the international agenda it was very problematic to find complicities, including the question of the failed decolonization of the Sahara or the determination of Spain's position regarding the Atlantic Alliance.

The consensus on foreign policy had been one of the most persistent however, Fernando Rodrigo argued that it is necessary to speak more properly of "tacit pact", which "allowed progress only on those foreign policy issues that did not create division between the main political forces committed to the arduous task of establishing the main lines of our democratic system."[45]

The priority objective of the first Transition Governments, at least until 1981, was the overcoming of the external inheritance of Francoism and the normalization of the international relations of Spain to advance in the globalization of diplomatic relations and achieve the approval of Spain with its European environment.

The Government of Arias Navarro, as Charles T. Powell recalls, "was as sparsely operational abroad as it was in the interior." However, the diplomacy developed by Foreign Affairs Minister José María de Areilza and his undersecretary, Marcelino Oreja Aguirre, would begin to orient towards the pursuit of these priority objectives. The Atlantic link with Washington was given special attention by José María de Areilza. In this sense, Henry Kissinger had declared himself in favor of democratization in Spain, but as the Spanish minister would observe, "he saw a high degree of reserve to what that process could bring as a discordant element or complication factor in European and Mediterranean political chess."[46] A testimony coinciding with Marcelino Oreja Aguirre, who claimed that: "For them once Spain had a settled democracy, they probably preferred a dictatorship than a democratic question, but once democracy was settled in Spain, it seemed right to them"[47].

Finally, US Secretary of State Henry Kissinger agreed to the conclusion of a new Treaty of Friendship and Cooperation signed in January 1976, ratified by the Senate shortly after the visit of the Kings of Spain to Washington in June of that year. The text presented a more political character than its precedents and was directed, in the opinion of Florentino Portero, to prepare what was considered by both parts as the ultimate goal of the bilateral relationship: the integration of Spain into the NATO.[48]

After the cessation of Arias Navarro and the appointment of Adolfo Suárez as Prime Minister in July 1976, it arose the opportunity to design a more ambitious foreign policy, a path in which the new Foreign Minister, Marcelino Oreja Aguirre, would play a crucial role. The new Minister is, in Javier Rupérez's opinion, the one "who feels the foundations of what

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politics was ... of what Spain's foreign policy was going to be." It was "the most creative moment of foreign policy" because it is from the Palacio de Santa Cruz from where "it is generating," the "normalization of relations," approach to the European Communities, the "first connections with NATO."[49]

The winding process of Euro-Atlantic insertion would translate, in some way, the complexity of the Transition and the difficulties derived from the vagueness of foreign policy indecisive issues. Europe and the incorporation into the process of European integration became the priority objective of Spain in the Transition.

In the face of the greater convergence of political forces towards Europe, Spain's position in the Western defensive system would be a particularly sensitive issue before public opinion and in the political discussion among parliamentary forces.

From the Atlantic perspective, says Florentino Portero, the main interest of the Atlantic Alliance resided in the territory itself and in its geographical position, that is, the geostrategic asset. To this purely geostrategic assessment could be added another political one, because with the entry of Spain into the Alliance, "neutralist tendencies would be controlled, deeply rooted in the leftist parties."[50]

From the Spanish point of view, it is clear that at the military level, Spain has sought to command and control the Canary Islands-Strait of Gibraltar-Balearic Islands axis, the southern border -the gravitational axis of its security since the beginning of the century. But from a political point of view, the incorporation of Spain into NATO was a very controversial and deeply ideologized issue.

Since 1977, as Javier Rupérez recalls, Spanish diplomacy would develop a policy of an approach to NATO, although conceived as a long-term objective.[51] The Government's position, as Florentino Portero has analyzed in detail, would begin to be clearer since March 1978, on the occasion of the defense that the Foreign Minister made before the Senate of Spain's entry into NATO. His intervention generated great controversy and raised positions found within the UCD. The official position assumed by the UCD and thus would be evident in the following elections in 1979 and in the investiture speech of Adolfo Suárez, where he explained his desire for Spain to be part of NATO, for "coherence with its European and Western vocation," but as long as the "peculiarities" of Spain were satisfied and broad parliamentary support was consummated.

But the atlantic determination of Marcelino Oreja did not count on the endorsement of the president. In September 1980, he would be replaced by José Pedro Pérez-Llorca in the Palace of Santa Cruz. Adolfo Suárez did not share the hurry of Marcelino Oreja for rushing Spain's entry into NATO. The reasons are multiple: first, he feared that aerating the problem of the Atlantic Alliance could jeopardize the fragile political consensus; secondly, he was not willing for the left-wing political forces, openly opposed to joining NATO, to monopolize the flag of neutrality and neutralism; and finally, Franco's heritage in his political culture and his worldview. Adolfo Osorio affects precisely this genetics since Adolfo Suárez was "a clear product of the Movement". Unable to be in Europe, Adolfo Suarez "followed that same line of the Third World and the United States."[52] An assessment coinciding with Javier Rupérez, in whose opinion, both the late-Franco right, to which Adolfo Suárez or Rodolfo Martín Villa belonged and the world of "neo-socialism" of Felipe González and Alfonso Guerra, in the background has a foreign policy vision, rather oriented towards neutrality, because:

> (...) is what they inherit, consciously or unconsciously, of late Francoism, that is to say, late Francoism (...) basically for concrete reasons, mainly through the performance of [Fernando María] Castiella [Minister of Foreign Affairs of 1957-1969], is inclining orientation of the country towards neutralist not aligned formulas[53].

It has been affirmed on some occasion that Adolfo Suárez, somewhat intuitively and naively, intended to promote a "third way" in international relations, which led him to these drives and initiatives such as the celebration of the Conference on Security and Cooperation in Europe in Madrid, which, according to Marcelino Oreja, intended to raise the international profile of Spain, where a large international conference had not been reunited since the one held in 1906 in Algeciras.[54]

After the resignation of Adolfo Suárez, Leopoldo Calvo Sotelo announced in his investiture speech on February 18, 1981, a few days before the attempted coup, his intention to initiate consultations with the parliamentary groups to raise a majority, to "Choose the moment and define the conditions and modalities in which Spain would be willing to participate in the Alliance." The entry into the NATO was for Leopoldo Calvo Sotelo, and for the main part of the centrism, one more step incorporating Spain to the West.

The decision was precipitated as a result of the review of relations with the United States, since that the validity of the Treaty was about to expire. The text approved by the Cortes referred to the guarantee of the entire Spanish territory, progress in the Gibraltarian dispute, and that Spain's entry into the NATO is used as a pressure instrument to accelerate the stagnant negotiating process to enter the European Communities. On May 29, 1982, Pérez-Llorca signed the Instrument of Accession to the North Atlantic Treaty.

With the beginning of the 1980s it is taking place the opening of the debate on the main outstanding issues of foreign policy. It was an eminently political and very ideological debate. Faced with the thesis defended by Leopoldo Calvo Sotelo, from his investiture speech, there would be opposed the

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arguments of the PSOE and the *Partido Comunista de España* (PCE). In the anti-Americanism that was projected on the issue of the Atlantic Alliance, it must be taken into consideration the reading of the past:

> The Spanish position -in the words of Ángel Viñas- did not fit the historical experience of Western European countries with which all Spanish parties, including those on the left, wanted to join. Western Europe considered the US troops as liberators of the chains of fascism (...) Influenced by the collective memory of the Spanish Civil War and the Franco regime, in Spain (...) the American soldiers (...) were considered as the incarnation of political support for the Franco regime.[55]

The new generations of socialists were poorly trained in international issues, and their positions and theses used in political debates were eminently doctrinal. In Florentino Portero's opinion:

> In general, the foreign policy of the United States was denounced, qualifying the Alliance as an instrument of US imperialism (...) It was insisted that the entry of Spain would represent an imbalance of the balance of forces between both blocks (...) From a national perspective, it was noted that Ceuta and Melilla were out of the Treaty, that the Alliance did not assume the scenarios where Spain had real threats, an allusion to the Maghreb, and that the risk of suffering a nuclear attack increased. Against the centrist proposal, they defended the maintenance of the bilateral relationship with the United States.[56]

In October 1982 began the period of socialist legislatures in the course of which the transition of foreign policy would culminate what Celestino del Arenal called the "constituent period".[57]

Once in the Government, the Socialists set out to achieve two fundamental objectives: the consolidation of democracy and the socio-economic modernization of Spain. The consummation of both objectives, says Charles T. Powell, demanded "not only a favorable international context but the full insertion of Spain in the block of democratic countries with firmly established civil and economic societies." [58] In practice, it meant achieving not only the incorporation into the European Communities but also the permanence in NATO.

On June 12, 1985, there were signed the Treaties and Acts of Accession of Portugal and Spain to the European Communities, whose actual entry into force would take place from January 1, 1986.

The most delicate and committed chapter of socialist management in that decade was the definition of the peace and security policy in deciding the future of Spain before the Atlantic Alliance. Conceived in its formulation and execution from a pragmatic spirit, the peace and security policy were founded on three pillars: the Atlantic Alliance, Western Europe, and bilateral ties with the United States. In a statement by Felipe González to the newspaper *El País* made on November 17, 1985, he argued why he had decided to move from the "ethics of ideas to that of responsibilities."[59]

The possible turn of the PSOE modified the margins on which the new Government designed its Atlanticist strategy as part of its global foreign and security policy project. As was the case with the UCD, the socialist government had to face its particular journey through the desert, resolving the contradiction between its European vocation and its neutralist tendencies. The pragmatist turn would cause divisions within the Party and militancy, in addition to the Government itself. Fernando Morán, like Charles T. Powell and Florentino Portero remember, would end up assuming the realistic turn. The support of the economic block and Narcís Serra, Minister of Defense, facilitated the definitive slip of Felipe González towards the Atlanticism, against the proposals of Alfonso Guerra.[60]

Also, the partial opening of the gate of Gibraltar in December 1982 seemed to confirm the thesis argued that the presence of Spain in NATO would support the scope of an agreement with Britain over the dispute.

In the pre-announcement of the referendum stage, the Executive embarked on the elaboration and dissemination of his political project, embodied in the famous "Decalogue for the security of Spain." That document was intended to seek support within its party, being presented to the XXX Congress of the PSOE in December 1984, and gain parliamentary support, where it had already been presented on October 23, 1984. The document reflected the philosophy of the Government that had chosen to Europeanize the Atlantic anchors of the international position of Spain.

The entry of Spain into the European Communities strengthened the Atlanticist strategy before the decisive appointment of the referendum, held on 23 October 1986. Despite the high abstention rate, 40.6%, the thesis of the Moncloa obtained an endorsement of 52.49% of the votes.

Once the Rubicon of the referendum was over, a diplomatic process was initiated within the Alliance to outline the participation model of Spain to achieve "the maximum degree of integration without violating the provisions of the referendum." Spanish diplomacy turned to the French precedent to resolve the relationship with the integrated structure of NATO.

Following the accession of Spain to the Western European Union in November 1988, on December 1, 1988, there would have taken place the signing of the Defense Agreement with the United States, similar to those signed with other European allies, in which in addition to suppressing the contingencies of 1953 contemplated a substantial reduction in the US military presence.

Spain, in the words of Ángel Viñas, had proceeded to the "Europeanization of strategic options". The foundations were laid for Spain to return to the "mainstream of European economic, political and security events."[61]

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Spain's new Euro-Atlantic anchors would determine the perception and projection of its external action towards peripheral scenarios in the Mediterranean-African world and Latin America, no longer presented itself before as an isolated interlocutor. Still, they would do so from its new European and western identity.

The problems of the southern border, according to its peripheral projection towards North Africa, and especially the Maghreb, would continue to suffer during the Transition of an integral response from the formulation and concretion of the security policy. However, full international approval and insertion in its Euro-Atlantic anchors would break the groundwork for the staging of an authentic Mediterranean policy.

The geopolitical, geoeconomic, and symbolic ingredients of the southern border for Spain present very different components of the North American appreciation of the Mediterranean space from the textuality of the Containment. In the Spanish case, the southern border calls beyond the concerns generated by geopolitical instability a whole symbolic flow broken by cultural constructions such as orientalism and the gravity of historical neighborhood relations with the other shore of the Mediterranean.

Concerns about security under Spain's Mediterranean condition would derive from the permanent border nature of the Mediterranean and the perception, collective imagination, and reading that has historically permeated the collective mentality of Spanish society.

The Mediterranean, often a place of exchanges and encounters, has been a line of fracture, confrontations, and antagonisms.[62] Antagonisms have worsened since the nineteenth century by European expansion. As Pedro Martínez Montávez points out, the "Mediterranean route is also, in the first and last instance, the colonial penetration route." The Arabs, almost unanimously, see it and feel this way, as a material reality and as a symbolic reality."[63] It would demarcate a geo-historic border space between two worlds: the West and the Islam[64] and which would ultimately refer to the Mediterranean as a scenario on which a mental or symbolic border would be projected[65].

The new Mediterranean coordinates from the beginning of the 20th century would underpin the secular tendency to polarize the border towards the south, as a historical conditioner, whose perception refers -in the words of José María Jover- "not only to the existence of a political demarcation or a delineation of civilizations but antagonism between the Spanish and the Moors"[66] the European and the Muslim. A notion widely socialized in the historical consciousness of the Spanish people and protected in a past conflict with the other shore of the Mediterranean and that reached the climax of its symbolic value during the civil war for the role of North Africa and the participation of the "Moors" among the rebel forces.

During the dictatorship of General Franco, it would not lose its border status but acquire new forms of expression as a result of the decolonization and the access of Moroccan independence in 1956, opening up a long period of disputes around the Spanish presence in North Africa, and the bipolarization in which the Mediterranean would be immersed by the East-West confrontation, especially after the power vacuum left by the old European colonial powers in the fifties.

The changes in the Mediterranean and North Africa, as a consequence of decolonization, would have profound consequences on the perception of the international environment by the regime of General Franco. The independence of Morocco and the impending irruption of Rabat's irredentism brought the Spaniards back to the threat of the south, their border character and they returned to collective memory, especially of the Africanists, the violent and conflictive past and dramatic episodes of the war of Rif. The Ifni war of 1957-1958 illustrated on a small scale the liveliness of this threat and the precariousness of Spain's defensive resources.

From now on, the southern border and the threat of the south would not only remain a focus of permanent attention to foreign policy and national defense. Still they would also be incorporated into the agenda of relations with Washington and the successive processes of renegotiation of the 1953 pacts in the course of the sixties -1963 and 1968-.

For the United States, the golden rule since 1954, states Rosa Pardo, was "to guarantee the use of military bases and, to ensure this, to contribute with minimum economic and military assistance to keep the country stabilized and maintain the necessary friendship with the Francoism."[67]

With the arrival of Castiella to the Ministry of Foreign Affairs, there would be attempted to undertake a more coherent and planned foreign policy. The end went through the strengthening of relations with the United States, improving defensive coverage, the approximation to Western Europe, and profiting the assets of its international prestige in its policy towards Latin America and the Arab world.

The instability in the Mediterranean since the mid-fifties under the Suez crisis, radical Arab nationalism, and fear of Soviet penetration in the Mediterranean, and decolonization processes in the Maghreb would greatly influence foreign policy and the premises of the national defense of the regime of General Franco.

From this perspective, the war of Ifni of 1957-1958, together with the impact of the recent independence of Morocco, leave noticeable consequences on Madrid concerning the threat of the South and defensive indigence.

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The turning point in relations with France would be underpinned after military cooperation in the Ifni War. In any case, military cooperation between the two countries in southern Europe and Africa, especially Morocco and the Sahara territories, has always developed in the spirit of preeminence of French interests.[68]

Finally, a problem added to the horizon of Spanish-American relations and aspirations to improve the defensive and economic benefits of the agreements would become the role and the links established between Washington and Rabat in the framework of the Cold War. Throughout the years, the United States would have a policy of appeasement and equidistance in the recurrent tensions between Madrid and Rabat for the sake of its global security interests in the region in the framework of the Cold War. In short, it was about avoiding a conflict between two allied states and regional destabilization.[69]

During the trip of Spain to the center of the international system changes of concept there would be forged changes of concept, among them, the notion of an authentic Mediterranean policy whose effective development would not take place until well into the eighties. In this sense, the elements of continuity would coexist with the irruption of elements of change and revision concerning the near overseas. The underlying elements of Orientalism-Africanism, which we already mentioned, in the Spanish case would remain in force.

In terms of images and perceptions, the period circumscribed between 1975 and 1986 was turbulent in Spanish-Moroccan relations, in line with the tensions inherited from the decolonizing process and the disputes that would mark the agenda of Rabat and Madrid. An aggravated situation, as Eloy Martín Corrales clarifies, due to new factors in the international context and the negative impact of three events for Arab-Muslim perception in the West: in the first place, the Arab-Israeli war and the consequences derived from the exorbitant rise in crude oil prices; the second, the increase in the armed struggle practiced by Arab organizations, the "anathematized terrorism"; and finally, the momentous event of the Islamist revolution in Iran, "responsible for the birth of the fear of 'Islamic tide'." In short, the image of the "Arab-Muslims suffered a significant deterioration that was extended to all countries and inhabitants of this cultural-religious field. The negative perception of Moroccans was updated with the new stereotypes generated in places far away from the neighboring country."[70]

The graphic catalog of the images of the south, particularly of Morocco, in line with these pitfalls, dotted the satirical graphic chronicle that appeared in magazines such as *El Papus* or *El Jueves*, but also newspapers and weekly newspapers such as *Época*, *Cambio 16*, or *Triunfo*, among others. They picked up the negative vision of the Arab-Muslims projected in comics such as *El Guerrero del Antifaz*, *El Capitán Trueno,* or *Audaces Legionarios*, but whose speech had become outdated and were renewed with a "direct and fresh" language knowing how to express in ironic and iconoclastic key the evolution of neighborhood relations with Morocco.

Likewise, the dossier of Western Sahara, the problems arising from the fishery negotiations, and the claims about Ceuta, Melilla, and the Rocks polarized a negative vision, which was largely embodied in the satirical images in the image of King Hassan II or the criticisms to the democratic lacks of the Alawi kingdom. The problem of Ceuta and Melilla in these years did not create in Spain any kind of patriotic unity. For rights, in the traditional key, the defense of cities constituted an inescapable obligation, at least formally. For the left, hiding until the Democratic Transition began, Ceuta and Melilla "symbolized the hated Spanish colonial adventure in Morocco and were considered colonial enclaves." However, the transition to democracy in Spain and the strategic and ideological changes in the main parties of the left - PSOE and PCE - would slowly change their position towards Ceuta and Melilla.[71]

Slowly, there would emerge new issues, such as drug trafficking or the emergence of North African immigration since the 1970s and 1980s, which began to concern certain sectors of society and the Spanish press. The conformation of democracy in Spain and the incorporation into the instances of European construction would have a decisive effect, in textual dynamics and the survival of these Orientalist prejudices.

In political terms, the great turn would crystallize in Mediterranean politics. This in the twentieth century, had become from an eminent polarization around the Maghreb and, especially, Morocco, to be articulated as a Mediterranean policy itself after the 1980s, whose horizons extend to the whole Mediterranean basin. However the Maghreb will continue to play a priority role. The gravidity of Morocco in the Spanish policy towards the Mediterranean is an excellent indicator of how the transformation of foreign and security policy and changes in the international system has determined, especially the end of the Cold War,[72] the formulation and articulation of an authentic global Mediterranean policy from Spain.

The articulation of a Mediterranean policy would be preceded by the inertia of the equilibrium policy towards the Maghreb. The first Transition Governments had polarized their international priorities towards Europe and the West. The Mediterranean would be relegated, as Susana Sueiro rightly points out, to the background, and the guidelines of diplomacy would comply with the inertia of the equilibrium and pragmatism policy developed since the 1960s. Spain, "for the first time throughout the century, did not focus the objective of its foreign policy in the area of the Strait

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or North Africa, but its primary interest consisted in its approach to Europe."[73]

Instability in North Africa was the most important obstacle to articulating of a more coherent policy towards the Mediterranean. During the 1970s and 1980s, the rivalry between Morocco and Algeria was a continuing threat to regional stability. The balance policy would tend to foster good relations with the two Maghreb states. What determined the Spanish strategy -affirms Richard Gillespie- was "the Spanish concern to find a way to contain the nationalist ambitions of Morocco, since these were the ones that most directly affected their national interests." Only Morocco and its "claims concerning Ceuta and Melilla, was a potential problem for Spanish internal politics."[74]

Despite the failure of the equilibrium policy, as highlighted during the Sahara crisis in 1975, it would continue to be the guideline of the improvised responses to relations with the Maghreb. Tensions with Morocco would continue despite the Tripartite Agreement of Madrid. The official Spanish position on the issue of Western Sahara would be set in February 1976 by José María de Areilza. It was considered to be a problem of "decolonization". Spain would have ceded the administration of the territory to Morocco and Mauritania, but not a "sovereignty that resided in the Saharawi people."[75] The policy of alternative balances gave no results. Attempts to placate Algeria regarding the problem of Western Sahara or the concessions to Morocco in the Agreement of 1977 would eventually feed a dynamic of instability that would eventually affect the pressures on Ceuta and Melilla or the discourse around the Africanity of the Canary Islands.

The absence of consensus on the question of Western Sahara, the other major controversy together with the entry into the NATO in Spanish foreign policy, would contribute -affirms Miguel Hernando de Larramendi-, to the "successive Spanish governments put into practice reactive policies with those who tried, in tow of the pressures of Morocco, the Polisario Front or Algeria, to maintain an equidistant relationship with all of them"[76].

With the arrival of Leopoldo Calvo Sotelo to the Presidency in 1981, there would be prioritized relations with Morocco. Subsequently, the arrival of POSE to the Government in 1982 would not initially alter in practice the policy towards the Maghreb. In the possible turn that is noticed in the Government of Felipe González, it would end up abandoning support for the thesis of the Polisario Front on the issue of Western Sahara and continuing the approach line to Morocco already initiated its predecessor.

Ultimately, it would be the Governments of Felipe González who would end up, in the medium term, laying the foundations for the development of an authentic Mediterranean policy and theoretical foundations, outlined to a large extent by Fernando Morán, and according to which the Mediterranean would return to occupy a priority place in Spanish politics. The proposal of the PSOE would focus on developing a "systematic design of a global nature of the action, outside, although the implementation of this model will not become visible until the integration processes in Europe and the Atlantic Alliance are completed."[77]

The Europeanization of Spain's foreign and security policy would have its translation to the Mediterranean framework, a secondary area in the priorities of the European Community. The Mediterranean and especially the Maghreb, as Miguel Hernando de Larramendi points out, went "from being rhetorical aspects of Spanish foreign policy to becoming active priorities of foreign action, with which Spain aspired to find a space of influence in the international matters."[78]

The conception of security, in its complexity and integrity, would obey an eminently liberal vision since it was based on the a priori that the Barcelona Process would stimulate a "virtuous dynamic". In short, from the acute analysis of Bichara Khader - director of the Center for Studies and Research on the Contemporary Arab World of the Catholic University of Leuven - it would be:

> (...) the liberal recipe in its most orthodox version of deregulated markets, which would supposedly increase the attraction of the Mediterranean space for local and international, private and public investors, which should favor the region's competition, growth, and, in ultimately, the reduction of migratory pressure and the weakening of the "Islamist opposition" and "social upheavals"; that is, stability in the Mediterranean space.
>
> This optimistic scenario of stability for the "economy" was combined, from the European point of view, with another scenario, equally optimistic and almost angelic, of stability for democracy and peace. Here the hypothesis postulated that economic development, induced by the opening of markets and its exposure to international competition, the capture of foreign investments, and privatization, would eventually expand the "middle classes", vectors of democratic transformations.[79]

The precise definition of the place of Spain in the world and the articulation of a democratic and homologated foreign and security policy, on track in the process of Europeanization of public policies, together with the profound socio-economic and cultural changes of Spanish society, would have profound repercussions on Mediterranean politics and relations with the Maghreb and the Mediterranean Levant.

In conclusion, the process of international standardization of Spain after Franco's Regime and the Transition to democracy had deep consequences in the Spanish foreign and security policy. The accession to NATO and European Community was determinant for the development of a real Mediterranean Policy. The international dimension was very important to understand the political transition in Spain, its international place in the international system of the Cold

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War and its policy toward the Southern border, the Mediterranean. The United States played a protagonist role in this change process in Spain as a model of modernity and as an anchor of Spanish foreign and security policy during the Cold War. The United States and Spain projected on the Mediterranean their cultural baggage of Orientalism and the inheritance of their history in the definition of their foreign policies to the Mediterranean periphery. This cultural background would emerge in their governmental speeches showing the core mentality toward the periphery.

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Autoridade Não Hierárquica No Uso Dos Direitos Non Hierachical Authority in the use of Rigths

By Rafael Navarro

Abstract- First, it is presented the notion of the Rule of Law by the providencial paradigm and demonstrated how the modern Nation-State fail to concretize democracy. Immanuel Kant's theory is example used here. The analysis show that the theoretical grounds in which the Rule of Law reside are, in themselves, the reason for the injustice of the modern Nation- State. The analysis is grounded in Giorgio Agamben's political theory. Following is presented the ethical idea of the primacy of the Good over the Right. The argument end with the concept of Event sustained as the foundation of the use of rights in a democracy. Here the argumentation confront the rationality of John Rawls's theory of justice with the inferential logic of Robert Brandom. The aim is to show a understanding of the Rule of Law centered on the persons and able to deal with the particularities of the lives of individuals living on a democracy.

Keywords: *democracy. rawls. agamben. brandom. philosophy of law.*

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Autoridade Não Hierárquica No Uso Dos Direitos
Non Hierachical Authority in the use of Rigths

Rafael Navarro

Resumo- O artigo inicia apresentando o modelo de Direito Universal estruturado no paradigma providencial que fundamenta o moderno Estado-Nação. A teoria de Immanuel Kant é usada como exemplo do problema. A análise visa demonstrar que mesmo nas situações cuja eficácia deste modelo seja viável, sua concretização resulta em patologias sociais manifestas em situações de anomia. A análise recorre ao pensamento de Giorgio Agamben acerca do moderno Estado de Direito. Em seguida, são apresentadas as premissas éticas contemporâneas da primazia do Bem sobre o Correto e de Eventos como elementos sociais fundamentais, a fim de que direitos sejam compreendidos como algo que o sujeito democrático usa, ao invés de possuir. O argumento se vale da confrontação entre a racionalidade da teoria da justiça de John Rawls e a lógica inferencial de Robert Brandom. Tais premissas buscam viabilizar um Direito Totalizante na constituição de formas de vida democrática.

Palavras-chave: democracia. rawls. agamben. brandom. filosofia do direito.

Abstract- First, it is presented the notion of the Rule of Law by the providencial paradigm and demonstrated how the modern Nation-State fail to concretize democracy. Immanuel Kant's theory is example used here. The analysis show that the theoretical grounds in which the Rule of Law reside are, in themselves, the reason for the injustice of the modern Nation-State. The analysis is grounded in Giorgio Agamben's political theory. Following is presented the ethical idea of the primacy of the Good over the Right. The argument end with the concept of Event sustained as the foundation of the use of rights in a democracy. Here the argumentation confront the rationality of John Rawls's theory of justice with the inferential logic of Robert Brandom. The aim is to show a understanding of the Rule of Law centered on the persons and able to deal with the particularities of the lives of individuals living on a democracy.

Keywords: democracy. rawls. agamben. brandom. philosophy of law.

I. Introdução

a) *Um Direito totalizante não pode se reduzir ao universal*

Aristóteles ensina que um universal é determinado ao se reconhecer as semelhanças que os diversos singulares possuem entre si[1]. Nisto consiste a separação entre o essencial e o acidental na doutrina hylemórfica do estagirita. As particularidades que individualizam e demarcam a singularidade são suprimidas para se poder estabelecer uma universalidade. A diferença é anulada, enquanto uma identidade é produzida. Por isso, uma determinação transcendental só pode se ocupar do universal. Por ter de se estabelecer como algo que valha necessariamente para todos os casos, os casos devem ser destituídos de suas singularidades (característica meramente acidental) e serem identificados apenas em sua universalidade.

Ao contrário, uma determinação totalizante se preocupa exatamente com aquilo que torna aquela situação específica em algo presente e singular. Uma determinação totalizante é uma ação sempre atual e presente e, portanto, impossível de ser estabelecida anteriormente à própria situação.

Assim, um Direito Universal sucumbe à falácia de já oferecer de antemão as respostas às relações sociais, por meio de um Direito Positivo. Um Direito Totalizante, porém, observa o caso concreto e singular, para daí observar as relações sociais implícitas e pensar racionalmente a regra jurídica. Racional é aquilo que estabelece *relações* na realidade e, exatamente por isso, um Direito Universal cuja lei positiva é absoluta (deve valer para todos os casos, logo, não pode ser relativo) é *irracional*.

A Vontade Geral como fundamento legitimador do Direito constitui a condição necessária e suficiente para o gerenciamento do Estado pelo governante dentro do paradigma[2] iluminista kantiano. Kant e seus herdeiros (os mais ilustres John Rawls e Jürgen Habermas) se apropriam da noção de vontade geral recorrendo a argumentos universais fundamentados em um consenso livre de interesses particulares. O transcendentalismo do uso de direitos pensada nestes termos é marcante. A tese de Robert Alexy do Direito como um caso especial do discurso moral, um caso que limita severamente as possibilidades dos atos de fala, já que vincula necessariamente o discurso jurídico ao horizonte determinado pelo Direito Positivo, ressalta isso com ainda mais força.

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[1] Metafísica, XI, 8, 1064

[2] O conceito de paradigma usado segue a definição de Giorgio Agamben em *Signatura Rerum*: "Paradigma em sentido próprio: um objeto singular que, valendo para todos os outros da mesma classe, define a inteligibilidade do conjunto de que faz parte e que, ao mesmo tempo, constitui." (p.22) E ainda "Mais parecida com a alegoria que com a metáfora, o paradigma é um caso singular que se isola do contexto do qual faz parte só na medida em que, exibindo sua própria singularidade, torna inteligível um novo conjunto, cuja homogeneidade ele mesmo deve constituir." (p.23)

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Eis então o problema: uma soberania, enquanto uma vontade decisória que discrimina cidadão e bandido ao determinar o lícito e o ilícito, estabelece os fins da prática jurídica. Portanto, se a tese agambiana de que o poder soberano é aquele que decide sobre o estado de exceção, for aceita pelo menos em seus termos fundamentais (como na definição de Estado como o detentor do monopólio do uso da força), então a distinção de entre regra e ordem não faz sentido algum. Ao analisar o positivismo jurídico, Dworkin afirma que

> [e] ntre outras coisas, uma regra difere de uma ordem por ser normativa, por estabelecer um padrão de comportamento que se impõe aos que a ela estão submetidos, para além da ameaça que pode garantir sua aplicação. Uma regra nunca pode ser obrigatória somente porque um indivíduo dotado de força física quer que seja assim. Ele deve ter autoridade para promulgar essa regra ou não se tratará de uma regra; tal autoridade somente pode derivar de outra regra que já é obrigatória para aqueles aos quais ela se dirige (DWORKIN 2002. p.32).

Ora, se a distinção entre uma regra (uso legítimo da força) e uma ordem (violência ilegítima) for a autoridade e a autoridade estabelece-se por meio da soberania, então toda regra efetiva-se apenas como ordem. Pois a soberania, que fundamenta a autoridade legitimadora da regra, só pode fazê-lo por meio de força.

Assim, é possível apresentar uma provisória definição de Direito Universal: um arranjo institucional no qual a Lei, enquanto representação da vontade geral de um povo, é sempre válida e cumprida e não é questionada. Pois, a Lei consiste no resultado do processo legislativo que alcançou consenso universalizável sendo legitimado por argumentos impessoais. Logo, "o moderno Estado de Direito, em que toda atividade do governo se apresenta como aplicação e execução de uma lei impessoalmente vigente, é, nessa perspectiva, o êxito extremo do paradigma providencial, em que Reino e Governo, legitimidade e legalidade coincidem"[3] (AGAMBEN, 2011. p.152).

Nas páginas a seguir será apresentada uma análise do Direito Universal destacando como o moderno Estado de Direito fracassou em seu projeto seguindo o paradigma providencial como meio de efetivação da promessa iluminista. Em seguida, será apresentado um modelo alternativo de racionalidade e valoração ética capazes de fundamentar um Direito totalizante a fim de concretizar a democracia no séc. XXI.

b) As promessas do Estado-Nação moderno e a anomia na estabilização de expectativas

i. Em *the clash of ideas in the world politics*, John Owen IV demonstra as condições sócio-políticas que se apresentam como uma chance de revisar instituições e promover reformas necessárias, decorrem da polarização ideológica na qual um ou mais grupos "decidem que os regimes de governo rivais não são o caminho para o futuro, mas apenas tentativas temporárias e equivocadas de organização social que irão eventualmente mostrar a si mesmas como incapazes"[4] (OWEN, 2010. p.240). A polarização ideológica em uma nação oferece terreno fértil para a modificação das instituições governamentais e, consequentemente, do exercício do Direito em um Estado. Para o autor o que catalisa a polarização

> é *instabilidade de regime de governo* em um ou mais Estados na região. Por instabilidade de regime, digo um aumento radical na probabilidade que um regime será substituído por outro através de revolução, *cup d'etat*, sucessão legítima de governo, ou outros meios; ou uma troca recente de regime que ainda precisa ser consolidada. Instabilidade de regime catalisa polarização ideológica transnacional através de efeitos de demonstração [como o sucesso de regimes rivais], ou a crescente plausibilidade na elite de que outros países possam seguir o exemplo dos países instáveis e sofrer eles mesmos uma instabilidade de regime (OWEN, 2010 p.5).[5]

A causa da instabilidade de regime apontada por Owen é o fracasso de um regime qualquer em cumprir as promessas deste regime. As promessas do Estado-nação moderno são expressas em âmbito jurídico e político nas Constituições dos Estados-nação. É preciso, porém, se atentar ao perigo que Agamben aponta nos documentos constitutivos dos Estados modernos desde a Revolução Francesa. Todas as Constituições do século XIX e XX possuem uma "cláusula de segurança" na qual um soberano torna-se capaz de anular violentamente a democracia com o argumento de protegê-la (AGAMBEN, 2004, p.28). O recurso a esta "cláusula de segurança" rompe com a reserva institucional, uma norma crucial para a sobrevivência da Democracia. Para nossos propósitos, a reserva institucional pode ser compreendida como o ato de evitar ações que, embora respeitem o Direito Positivo, violam os compromissos de Justiça inerentes

[3] A tese de que os conceitos políticos do Ocidente são indissociáveis dos conceitos religiosos já foi suficientemente apresentada por uma série de autores do séc. XX, entre os quais Schmitt, Kantorowitz e Weber. Eu me aproprio dos argumentos e conclusões de Giorgio Agamben sobre o tema.

[4] In a deep sense, it is because they decide that rival regimes are not the wave of the future but are only temporary, misguided attempts to organize society that will eventually exhaust themselves.

[5] is *regime instability* in one or more states in the region. By regime instability I mean a sharp increase in the probability that one regime will be replaced by another via revolution, cup d'etat, legitimate government sucession, or other means; or a fresh regime change that has yet to be consolidated. Regime instability triggers transnational ideological polarization via demonstration effects, or the increasing plausibility among elite that others countries could follow suit by likewise undergoing regime instability.

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à legitimação da ordem Constitucional (LEVITSKY e ZIBLAT, 2018, p.107). Limitar o uso do poder estatal somente pela legalidade estrita é o meio pelo qual um governo da maioria - os "cidadãos de bem" de uma supremacia branca - visa a manutenção de um *status quo*, chegando mesmo ao paradoxo de suspender violentamente a democracia sob o pretexto de salvá-la do tumulto.

A causa principal do problema reside na concepção clássica de verdade por correspondência que busca validação atômica e representacionista de expressões verdadeiras em linguagem normativa e isso propicia a situação de dilemas deônticos. Por conta do Direito se estabelecer como um parâmetro da vida social e política, dilemas deônticos no sistema jurídico constituem patologias sociais. "No contexto da teoria social, podemos falar em 'patologia social' sempre que a relacionarmos com desenvolvimentos sociais que levem a uma notável deterioração das capacidades racionais de membros da sociedade ao participar da cooperação social de maneira competente" (HONNETH, 2015, p.157).

Numerosas são as teorias do Direito que alimentam esta patologia ao buscar a legalidade como o critério suficiente de validação jurídica. O que é lícito é permitido, o ilícito não é permitido. Contudo, dilemas deônticos impossibilitam ao indivíduo titular do direito saber quais os limites e o âmbito de sua liberdade. Pois se a validação do Direito se identificar com o correto e o correto se apresentar como positivo e negativo ao mesmo tempo, o Direito se torna fonte de anomia. "A*nomia* [consiste em] uma forma de privação, de perda da condição de membro das instituições e modos sociais, nos quais as normas estão expressas, incluindo as normas da racionalidade constituída pela tradição" (MACINTYRE, 1991, p.395).

ii. A promessa do Estado-nação moderno pode ser reconhecida na definição, compartilhada por Kant e Foucault, do projeto Iluminista que se estabelece "como primariamente uma tarefa, a tarefa de alcançar uma condição na qual seres humanos pensam por si mesmos ao invés de se submeterem às prescrições de alguma autoridade"[6] (MACINTYRE, 2006. p.172). Tal projeto foi concebido como demandando instituições justas cujos papéis são familiares: uma democracia representativa na qual indivíduos potencialmente autônomos podem expressar suas preferências políticas; uma economia de livre mercado na qual os indivíduos possam expressar suas preferências como consumidores e empreendedores; um sistema jurídico que garanta as liberdades necessárias para a autonomia da pessoa humana; a expansão e distribuição das tecnologias que concebem os meios organizacionais e materiais para o exercício destas liberdades e a expressão daquelas preferências; e um sistema educacional acessível a todos e que prepare os jovens a participarem destas instituições.

Assim, a igualdade de condições entre os cidadãos apresenta-se como um pressuposto e uma premissa do Estado-Nação moderno. Contudo,

> igualdade de condições para todos os nacionais tornou-se a premissa do novo corpo politico, e enquanto esta igualdade foi concretamente levada a cabo ao menos ao ponto de privar a antiga classe governante de seu privilégio de governar e a antiga classe oprimida do seu direito de ser protegida, o processo coincidiu com o nascimento da sociedade de classes que novamente separou os nacionais, economicamente e socialmente, tão eficientemente quanto o antigo regime (ARENDT, 1958, p.12)[7]

Por isso, uma questão importante é levantada por MacIntyre quando ele pergunta: "fosse o caso que o trabalho conjunto dessas instituições sistematicamente alcançou e alcança resultados muito diferentes das expectativas do Iluminismo, por de fato frustrar ou diminuir a autonomia e escolhas dos indivíduos, quanto *isto* importaria para o destino ulterior do projeto Iluminista?"[8] (2006, p.173) Parece-me sensato buscar a resposta desta pergunta analisando os elementos do projeto Iluminista que ainda se encontram como determinantes na concepção do Estado de Direito.

Pois, se as análises de Foucault forem levadas a sério, as relações de dominação na modernidade não mais se fundamentam no exercício de força física, mas em uma coerção resultante da docilização das massas por meio de discursos alienantes, enfim, por meio de patologias sociais. "Sempre que alguns ou todos os membros da sociedade, em razão de causas sociais, já não estejam em condições de compreender adequadamente o significado destas práticas e normas podemos falar numa 'patologia social'" (HONNETH, 2015 p.157-158). Daí é mister a questão: se a dominação decorre das anomias e anomalias normativas institucionais, não será mais adequada tratá-la como patologias sociais, ao invés de relações

[6] As primaly a task, the task of achieving a condition in which human beings think for themselves rather than in accordance with the prescriptions of some authority.

[7] Equality of condition for all nationals had become the premise of the new body politic, and while this equality had actually been carried out at least to the extent of depriving the old ruling class of their privilege to govern and the old opressed classes of their right to be protected, the process coincided with the birth of the class society which again separated the nationals, economically and socially, as efficiently as the old regime.

[8] Were it to be the case that the conjoint working of these institutions systematically achieved and achieves very different outcomes from those expected by Enlightnment, by in fact frustating or underminig the autonomy and choices of individuals, how much would *this* matter to the ultimate fate of the Enlightnment's project?

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puramente de dominação?[9] Pois, "os sintomas nos quais tais patologias sociais se refletem não se expressam sob a forma de comportamentos individuais extravagantes ou deformações de caráter. Expressam-se muito mais à medida que os membros de determinados grupos desenvolvem tendências a uma rigidez de comportamento, à inflexibilidade de seu comportamento social e à autorreferência" (HONNETH, 2015 p.158). Tais características saltam aos olhos quando se analisa o paradigma iluminista do Direito garantidor de expectativas.

c) *O paradigma kantiano da segurança jurídica iluminista*[10]

i. Em sua tentativa de colocar a filosofia "no caminho seguro de uma ciência", Kant recorre ao transcendentalismo. O intuito do filósofo prussiano é poder estabelecer um dever-ser que possa ser tão certo e permanente quanto o "conhecimento seguro" da ciência de seu tempo. Portanto, Kant advoga a impropriedade de se tratar a Moral a partir de juízos hipotéticos, pois estes não possuem "simplicidade de caráter mais permanente e inequívoca". Para alcançar tal patamar seria preciso, para Kant, que a filosofia moral recorresse a juízos categóricos, de caráter universal e, por esta razão, unívocos e permanentes.

Contudo, nos chamados "textos anti-revolucionários" de Kant destaca-se um problema fundamental para a teoria política deste filósofo: o problema de relacionar princípios de legitimação a instituições humanas concretas. Comentarei a filosofia política kantiana principalmente a partir dos seguintes textos: *Elementos Metafísicos da Justiça; Sobre o Provérbio: isso pode ser verdade na Teoria, mas não tem uso na Prática;* e *Paz Perpétua*. Duas passagens dos EMJ demonstram que a posição kantiana é inconsistente, pois contém tanto a teleologia de buscar trazer o governo das leis sob uma constituição republicana, quanto uma obediência formalista aos poderes constituídos. As passagens são:

> que a mera ideia de soberania torna necessário obedecer como meu senhor qualquer um que tenha se imposto sobre mim como senhor, sem que eu tenha de perguntar quem deu a ele o direito de me comandar. (EMJ 371)
>
> Se o povo sustentar que o uso da violência é justificado contra uma constituição, não importa quão defeituosa ela seja, e contra a autoridade suprema, eles estariam supondo que possuem um direito a colocar a violência como o ato prescritivo supremo de legislação no lugar de cada direito e lei. (EMJ 372)

A aporia aqui reside em os princípios jurídicos de Kant possuírem duas fundamentações distintas para a obediência à autoridade política. Um fundamento reside nos princípios metafísicos incondicionais das leis (ou Direito). Nesta fundamentação, um cidadão deve obediência irrestrita à autoridade legitima [*Regent*] que outorga comandos de acordo com leis legitimas. Neste caso, um cidadão não tem direito a questionar uma lei outorgada pelo Poder Popular Soberano [*Beherrscher*]. A posição kantiana, assim, exige que uma constituição estabeleça a Soberania para que uma República possa, de fato, existir. O segundo fundamento é o valor moral-pragmático da participação de um sujeito em um Estado. Kant argumenta que ao participar de um Estado e se sujeitar às leis de uma República, o sujeito terá seus impulsos que se confrontem com a lei Moral vigiados pela força coercitiva das leis republicanas. Portanto, a legitimidade das leis é uma condição para a legitimação de sua aplicação coercitiva. O poder supremo do Estado é requisito para o exercício da autoridade estatal, que é condição necessária para a existência de um Estado. E a existência de um Estado é uma condição necessária para a existência de direitos individuais adquiridos.

Assim, a tese aqui apresentada consiste em três argumentos principais. Primeiro, a demonstração da tensão entre o dever de obedecer inquestionavelmente o governante e os princípios da lei legitima, que exigem do Direito positivo que este se conforme ao Imperativo Categórico, representado politicamente pelo contrato social. O segundo argumento sustenta que em cada um dos três textos "anti-revolucionários" Kant apresenta uma definição bem delimitada do dever de obediência à autoridade. E por fim, a proibição kantiana do pretenso direito à revolta entra em conflito com a sua teoria de separação de poderes, resultando no exercício de poder despótico por parte do governante. Partamos, então, para as análises dos textos de Kant.[11]

ii. Kant publica *Teoria e Prática*, um texto sobre obediência à autoridade, em um período conturbado da história da Prússia. A aparente renúncia de Kant ao direito de revolução, bem como a crítica aos desenvolvimentos da Revolução Francesa, acalmaram o editor da obra. Neste ensaio, o critério de Kant para a legitimidade da lei é que a lei legítima deve ser uma função da vontade geral, moldada pelo contrato social. A forma de avaliação popular sobre a legitimidade ou não de um decreto governamental é apresentada por Kant com a seguinte proposição: "Qualquer coisa que um povo não possa decretar para si mesmo não pode ser decretado para ele pelo legislador" (T&P 304). Em outra passagem, o texto

[9] Sobre este tema, ver o excelente DAHL, Robert. *A Critique of the Ruling Elite Model. The American Political Science Review*, Vol. 52, No. 2 (Jun., 1958), pp. 463-469: American Political Science Association.

[10] Sigo a análise de Westphal, apesar de alcançar conclusões distintas neste artigo.

[11] Todas as referências de páginas das obras de Kant se referem às edições da Academia.

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kantiano oferece ainda os seguintes critérios para a legitimação:

> *Somente se* não for contraditório acreditar que *um povo inteiro pode concordar que tal lei é incompatível com o Direito [Recht],* inobstante a dor que possa resultar. Agora, se uma lei pública pode receber tal concordância, disso segue que é irrepreensível em relação ao Direito e, *portanto,* carrega consigo a autoridade de coagir e*, ao mesmo tempo,* a proibição contra ativamente resistir à vontade do legislador (T&P 299).

Com isso Kant dá os critérios para a legitimação que torna obrigatória a sujeição irrestrita à norma.

Uma lei que respeite estas proposições não pode ser desafiada legitimamente, diz Kant. Porém, o que não é proibido, na teoria kantiana, é pelo menos permitido. Deste modo, é importante destacar que uma lei é legitima "somente se" ela puder ser concordada por todo um povo, e concluir que se ela não puder alcançar tal grau de concordância, então *é ilegítimo atribuir força coercitiva a ela*. Disso decorre que o dever de obedecer a uma lei legítima é contraposto à permissão (e em alguns casos até mesmo o dever) de resistir a uma lei ilegítima.

Se o Estado tentar exercer um poder despótico por meio de uma lei ilegítima, então a questão deixa de ser de direito e passa a ser de poder. E "uma vez que a questão torne-se uma de poder, não de direito, o povo poderá [*dürfe*] também buscar [*versuchen*] seu próprio poder e assim resultar todas as constituições legais em inseguras" (T&P 306). Todavia, Kant falha em separar com suficiente clareza a pessoa do governante da instituição de soberania (presidência, primo ministério ou qualquer outro aceito pela constituição de uma república). Este equívoco leva-o a falar de insegurança de uma *Constituição* quando a questão reside na resistência a uma *pessoa*, neste caso o governante que tentou executar uma medida extra-constitucional. Sigamos, pois, com a análise dos textos, a fim de aprofundar a análise desta questão.

iii. Assim como em *Teoria e Prática* Kant afirma sobre a obediência à lei em *Paz Perpétua* que coerção é legítima somente se ela estiver de acordo com os princípios da liberdade. O filósofo prussiano ratifica assim sua posição. Mas é na última seção do apêndice ao *Paz Perpétua* que Kant se dedica à questão do direito à rebelião. Ao famoso Imperativo Categórico, o texto adiciona o "Principio da Publicidade". Tal princípio é declarado em dois estágios, o primeiro estabelecendo uma condição necessária que Kant chama de princípio negativo, ele rege:

> Se minha máxima não puder ser *abertamente divulgada* sem ao mesmo tempo levar ao fracasso minha intenção, i.e., deve ser mantida em *segredo* para ser bem sucedida, ou se eu não puder *publicamente reconhece-la* sem com isso inevitavelmente angariar oposição geral ao meu plano, então esta necessária e universal, e portanto concebível *a priori,* oposição a mim não pode se originar e nada mais que a injustiça com a qual ela ameaça a todos. Além disso, ela meramente *negativa*, i.e. serve apenas como meio para reconhecer o que não é *correto* em relação aos outros (PP381).

Este princípio, em sua formulação negativa, conjuntamente com o poder soberano do governante que proíbe a opção de revolta, leva à curiosa situação onde o soberano possa dizer o que quiser, incluindo confrontar a verdade, sem ser rebatido por um cidadão, enquanto este pode ser suprimido pelo poder do governante segundo a formulação negativa do princípio de publicidade.

Cônscio desta aporia, Kant indica um segundo princípio, desta vez afirmativo e além de necessário, suficiente. "Toda máxima que *requer* publicidade (a fim de não falhar em seu próprio fim) concorda tanto com a política quanto com o direito" (PP p.386). Com esta segunda formulação adicionada à primeira, ele declara que este é um teste genuíno na legitimação de máximas porque se publicidade for requerida para levar a cabo a máxima, esta máxima e sua execução devem contar com e contribuir para o desenvolvimento mútuo de confiança pública (PP p.386).

Não obstante, a premissa de que o Estado é autorizado a se valer de força coercitiva suprema, para que não haja oposição suficiente ou legitima ao seu poder, gera complicações que será preciso recorrer aos *Elementos Metafísicos da Justiça* para esclarecer.

iv. Em *Elementos Metafísicos da Justiça* Kant apresenta uma teoria de separação de poderes na figura de separação de pessoas morais. "Autoridade soberana reside na pessoa do legislador, autoridade executiva reside na pessoa do governante, e autoridade judicial reside na pessoa do juiz" (EMJ §45 313).

A autoridade de uma destas pessoas é distinta da das outras, mas, destaca-se que Kant não enxerga este como um esquema de vigília e controle de poder exercidos reciprocamente. Na teoria kantiana a autoridade executiva é suprema em seu poder coercitivo e prerrogativa de efetivar leis. "O governante [*Regent*] do Estado é aquela pessoa (moral ou física) que possui a autoridade executiva", mas seus comandos não são leis, antes, apenas ordens e decretos *de acordo com a lei*, "pois estes envolvem decisões sobre casos particulares e são considerações sujeitas a mudanças" (EMJ §49 316).

Desta maneira, "[...] a soberania [Beherrscher] do povo (o legislador) não pode ao mesmo tempo ser o governante [*Regent*], pois o governante é ele mesmo sujeito à lei e por ela obrigado a outrem, o soberano [*Souverän*]" (EMJ §49 p.317). Como é comum nos textos kantianos, a terminologia usada varia. Mas em algumas passagens, apesar de Kant não ser explicito, o

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uso de diferentes terminologias para distinguir entre a pessoa física [*Direktorum*] e o posto de governante [*Regent*], indica que ele pensou em alguma separação entre as pessoas ditas "pessoas morais" e os indivíduos físicos concretos que ocupariam os postos institucionais. Com isto em mente, Westphal destaca que Kant afirma que uma mesma Pessoa Moral não poderia combinar as funções de *Regent* e *Souverãn*, mas sem expressar nada sobre a possibilidade de um *Direktorum* poder acumular, de algum modo, as duas funções. A fala kantiana se restringe à figura Moral, onde ele declara que "o soberano [*Souverãn*] pode tomar a autoridade do governante [*Regent*], depô-lo, ou reformar sua administração..." (EMJ §49 317). Além disso "nem o soberano nem o governante podem julgar; eles podem somente apontar juízes como magistrados" (EMJ §49 317).

Kant declara que o governante detém suprema autoridade de comandar e legislar. Em algumas passagens do EMJ, quando Kant aborda as diferentes formas de governo (Autocracia, Aristocracia e Democracia), ele trata as Pessoas Morais como "nada mais que as tantas relações na Vontade unificada do povo" e afirma ainda ser preciso uma pessoa concreta para "representar a mais alta autoridade do Estado" (§51 338).

Todavia, a passagem da unidade do corpo político para a unidade do poder governamental em tais termos "deteriora o republicanismo de Kant, não só na prática, mas também conceitualmente" (WESTPHAL. p.397). E concordo com a conclusão de Westphal de que tais argumentos afetam "diretamente a significância e adequação dos argumentos de Kant para obediência à lei e contra a rebelião" (p.397).

Kant defende que qualquer prerrogativa que legitimasse o uso da força para enfrentar um governante que deve possuir poder coercitivo supremo resultaria em que "a máxima autoridade executiva poderia estar sujeita à coerção, o que é uma auto-contradição" (§49 p.317). O filósofo de Köhnisberg oferece argumentos semelhantes em *Teoria e Prática*. Porém, a ambiguidade dos usos do termo Direito (*Recht*), aliada ao silêncio do autor quanto a relação entre o Imperativo Categórico e o Princípio de Publicidade, tornam muito difíceis quaisquer conclusões fortes sobre o tema.

v. A teoria política de Kant não busca uma separação de poderes como um sistema de equilíbrios e contenção mútua, mas "envolve uma estrita separação de poderes – uma separação que em efeito garante supremacia ao executivo" (WESTPHAL p.398). Assim, o argumento kantiano para a obediência ao Estado pode ser expresso da seguinte maneira: 1) O Povo possui apenas poder legislativo; 2) qualquer lei que não seja a expressão da Vontade Geral é ilegítima; 3) O poder executivo na figura do governante possui poder coercitivo supremo; 4) Este poder coercitivo é vinculado diretamente com a efetivação das leis legitimas legisladas de acordo com a soberania popular; 5) disso conclui-se que qualquer resistência a tais leis é ilegítima.

Entretanto, se é Moral, no sentido kantiano[12], seguir o projeto Iluminista e defender as instituições produzidas com base neste projeto, até onde isto é também Ético? Pois:

> Ética não é a vida que simplesmente se submete à lei moral, mas a que aceita, irrevogavelmente e sem reservas, pôr-se em jogo nos seus gestos. Mesmo correndo o risco de que, dessa maneira, venham a ser decididos, de uma vez por todas, a sua felicidade e a sua infelicidade (AGAMBEN, 2007. p.61).

O que busco destacar aqui é a inconsistência de um Direito Universal entendido como a manutenção do Estado ou a salvaguarda da ordem jurídica quando confrontada com injustiças. O argumento de uma legitimação quase mágica da lei, que não deveria ser questionada uma vez que tenha passado pelo processo legislativo[13], é uma desesperada tentativa de defender o projeto iluminista que serve de modelo de racionalidade do Estado-nação moderno.

d) Vicariato estatal e legitimação ex opere operato

i. A igualdade precisa ser um fim almejado e não pode ser um ponto de partida para um conceito democrático de Segurança Jurídica. A análise parte da prerrogativa jurídica de que o não conhecimento de um dever não escusa alguém de observá-lo. Todavia, eis o que é decisivo, que *um direito que seja desconhecido possa, dentro da ordem jurídica, não ser observado.* Ora, isso não me parece a mais justa das situações, além de confrontar radicalmente com a pretensão de igualdade de todos perante a lei. Como posso considerar-me igual a outrem quando eu, dentro da interpretação vigente de que um direito desconhecido não é exercido, ao conhecer um direito ignorado por este outrem gozo, então, de um privilégio?

[12] Considero extremamente significativo que Kant, um pietista, oponha sua Moral Deontológica às eudaimonicas. Quando o filósofo alemão declara, em Fundamentação da Metafísica dos Costumes, que uma ação pode ser boa sem ser Moral (penso no exemplo de ajudar um mendigo), e que só a ação Moral serve de pauta para a conduta humana, ele tenta fundamentar filosoficamente sua Fé. A doutrina pietista da predestinação postula que Deus já escolheu os eleitos ao paraíso, e que a ação humana é incapaz de modificar os desígnios de Deus. Portanto, agir visando a Eudaimonia seria um erro, pois a ação humana seria incapaz de conquistar por si mesma a Beatitude que só Deus pode conceber.

[13] Klaus Günther, por exemplo, propõe uma diferenciação entre discursos de Fundamentação e de Aplicação da Lei. Segundo este autor alemão, a Fundamentação acontece no processo legislativo e ao judiciário caberia apenas a tarefa de legitimar discursivamente apenas a Aplicação da norma.

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Contudo, o que está em jogo aqui não é a análise de cada ato jurídico efetuado por um vicário estatal. Mais que isso, é preciso retomar as bases do pensamento ético e sua fundamentação da ação humana. Quando Kant apresenta sua Moral como uma deontologia e a coloca em oposição direta às éticas, ele direciona a mudança do foco da ética, da essência na filosofia clássica aos fatos na filosofia da modernidade. O grande problema, porém, é o foco de análise kantiano na ação específica, no fato determinado e se a obra realizada foi feita deontologicamente, pelo dever. Isto porque o foco no fato moral permite relegar o agente a um plano de fundo e julgar as ações em uma perspectiva pretensamente imparcial e passível de universalização. O dever, tornado lei positiva e legitimada por uma vontade geral legislativa, apresenta-se como a manifestação da Moral que validaria o contrato social.

Esta mudança no modo de se entender o pensamento ético é o tema abordado por Agamben principalmente em *O Reino e a Glória* e *Opus Dei*, onde ele faz a vinculação do modelo vicarial e providencial com a deontologia iluminista de Kant e seus herdeiros. Neste modelo, que é o do Direito moderno, a categoria ontológica da *dynamis* é anulada enquanto tal quando *enérgeia* se identifica a *effectus*. Pois, se ser for ser em ato [*enérgeia*] e ser em ato for compreendido somente pelo critério do *efeito produzido por um ato*, então o ser-em-potência da *dynamis* aristotélica é tomado como nada se não se atualizar enquanto efeito.

> Decisivo é que, na tradição litúrgica, o vínculo entre os dois elementos da ação, o *officium* e o *effectus*, seja concebido segundo o modelo potência-ato. Não somente *effectus* traduz nas versões mais antigas o grego *energeia*, mas nos missais e nos sacramentos o *effectus* divino realiza e aperfeiçoa (*perficiatur, impleatur, compleatur...)* cada vez o que era de qualquer modo em potência na ação do sacerdote. [...] Também aqui, todavia, a passagem do paradigma da *energeia* para o da efetualidade implica uma novidade não desprezível. Enquanto em Aristóteles *dynamis* e *energeia* eram duas categorias ontológicas, dois "modos no qual o ser se diz", que designavam como dois modos diversos de presença, agora está em questão o estatuto da praxe, a relação entre determinada função – o *múunus* e o *ministerium* do sacerdote – e seu tornar-se efetual (o *effectus*) (AGAMBEN, 2013. p.97).

Entendidos nos termos de *effectus*, direitos e deveres caem no paradigma de validação do ato *ex opere operato*, no qual o que interessa é somente saber se o Estado executou um ato de acordo a legalidade, sem considerar que é o próprio Estado quem determina a licitude. O que se analisa é o ato jurídico como lícito ou ilícito, de forma impessoal e com pretensão de imparcialidade. O modo como a ação jurídica *modifica* a vida das pessoas não é observado. Logo, o parâmetro do Direito deixa de ser os direitos e deveres que permitem o entendimento das regras sociais e torna-se somente a licitude ou ilicitude da lei. Esquece-se da referência material democrática ao se apegar a uma pretensa "aplicação científica da lei", a ficção da segurança jurídica.

ii. A resposta medieval sobre o governo divino do mundo que permaneceu durante séculos como a mais aceita foi a do governo por meio de leis gerais e a providência divina através de vicários. "O governo do mundo não acontece nem pela imposição tirânica de uma vontade externa nem por acidente, mas pela consciente previsão dos efeitos colaterais que emanam da própria natureza das coisas e permanecem em sua singularidade absolutamente contingente" (AGAMBEN, 2011. p.134).

A secularização desta noção é manifesta no juiz que daria sentido à lei ou no burocrata sem o qual, presume-se, o Estado não poderia existir. Estes são vicários que atuam com a insígnia do Estado-nação e por isso são capazes de "fazer as vezes" deste Estado. Assim, o vicário estatal, enquanto aplicador de leis gerais, permite danos colaterais calculados, como aplicações injustas da lei para resguardar uma concepção equivocada de segurança jurídica. "O que parecia um fenômeno marginal ou um efeito secundário converte-se assim no paradigma do ato de governo" (AGAMBEN, 2011. p.134). Eis a fonte do entendimento kelseniano do Estado como ordem jurídica mantida por aplicadores da lei e da definição de República como um Estado governado por representantes populares eleitos de acordo com uma lei.

> Legalmente, governar pela burocracia é governar por decreto, e isso significa que poder, que no governo constitucional apenas aplica a lei, torna-se a fonte direta de toda legislação. Decretos, além do mais, permanecem anônimos (enquanto a lei pode sempre ser ligada a pessoas ou assembleias específicas), e portanto, parecem fluir de algum poder supremo que não requer justificação (ARENDT, 1958. p.243).[14]

Dentro desta perspectiva, a questão sobre segurança jurídica foi tradicionalmente posta focando-se na legitimidade e possibilidade de legitimação da ação vicarial. A teologia medieval viveu este debate na forma da validação dos sacramentos pela ação do sacerdote. Questionava-se se o sacramento se valida *ex opere operato* ou *ex opere operans*.

Em resumo, *ex opere operans* é a tese de que um sacerdote que não levasse uma vida digna seguindo a regra do evangelho não estaria apto a efetuar os sacramentos. O argumento pode ser

[14] Legally, goverment by bureaucracy is goverment by decree, and this means that power, which in constitutional goverment only enforces the law, becomes the direct source of all legislation. Decrees moreover remain anonymous (while law can always be traced to specific men or assembles), and therefore seem to flow from some over all rulling power that needs no justification.

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exemplificado com a afirmativa de que se o sacerdote, instrumento pelo qual Deus faz suas obras, for ímpio, então a obra divina sofreria uma diminuição em sua glória, já que não seria possível um trabalho perfeito com ferramentas imperfeitas. A tese concorrente, *ex opere operato*, defende que a legitimação e efetividade dos sacramentos vêm do Poder Soberano de Deus e que o sacerdote não é capaz de aumentá-la ou de diminuí-la.

Aqui se mostra ao mesmo tempo o caráter servil de um Eichmann e de todo fardado que "apenas cumpre ordens" e a megalomania de uma casta jurídica, especialmente os "intérpretes autênticos" de Kelsen, que acreditam dar vida e realidade ao texto normativo por meio de suas obras que "apenas" executam a lei. Esta foi a tese vencedora no debate teológico e é a que sustenta que a legalidade é causa suficiente para validar o Direito, sendo a legitimidade apenas uma característica desejável, mas não necessária. Entretanto, contra essa concepção é aqui defendido que a segurança jurídica não pode se reduzir à preocupação com o exercício do poder por parte dos "representantes" do Estado, pois:

> A vicariedade implica uma ontologia, ou melhor, a substituição da ontologia clássica por um paradigma "econômico", em que nenhuma figura do ser está, como tal, na posição de *arché*, mas originária é a própria relação trinitária, em que cada figura *gerit vices*, faz as vezes da outra. O mistério do ser e da divindade coincide sem resíduos com seu mistério "econômico". Não existe uma substância do poder, mas só uma "economia", só "governo" (AGAMBEN, 2011. p.156).

Esta concepção toma o funcionário público, especialmente o "intérprete autêntico" de Kelsen, como se fosse o próprio Estado ou a Constituição. Mas e se o Direito for profanado e restituído ao uso comum? Se uma democracia for compreendida não como atos do parlamento, do governo ou do judiciário que consistiriam fatos jurídicos, mas como um regime no qual direitos são eventos apropriados pelas pessoas e constituíssem modos de vida? Afinal, *augeo* é o étimo tanto de autoridade quanto de autor. Mas, enquanto a autoridade na figura do *Auctoritas* foi assumida como o que "aumenta algo que já existe" conferindo-lhe legitimidade, é preciso reconhecer que "*augeo* não é simplesmente 'aumentar algo que já existe', mas o ato de produzir alguma coisa a partir do próprio seio, fazer existir" (BENVENISTE 1969, vol 2 p.148 *apud*: AGAMBEN, 2004). E quando a autoridade é separada do autor, quando o modelo vicarial separa o titular do Direito da criação e efetivação do Direito, então pode se ter certeza de que não se vive em uma democracia. O modelo vicarial e o ideal que ele almeja constituem os dispositivos de dominação que corrompe a *potência* social, o dinamismo social, em *poder* estatal, em manutenção de relações de dominação.

e) Utópica igualdade

i. A premissa do Direito Universal estabelece a igualdade como um ponto de partida. A aceitação desta premissa vai tão longe ao ponto de se confundir com a definição de um Estado Democrático; um Estado democrático seria aquele no qual se presume a igualdade inicial de todos os cidadãos. Contudo, tal premissa concebe que um texto constitucional seria capaz de moldar a realidade imediatamente e é utópica já que "utopias não crescem da realidade familiar seguindo padrões realistas de desenvolvimento. Para a maioria dos autores, utopias possuem apenas um passado nebuloso e nenhum futuro; elas estão subitamente ali, e ali para ficar"[15] (DAHRENDORF, p.116).

Amartya Sen afirma que "toda teoria normativa da organização social que resistiu ao teste do tempo parece demandar equidade de *alguma coisa* – algo que é tido como particularmente importante naquela teoria"[16] (SEN, 1992. p.12). Porém:

> É suficiente notar que a presunção de consenso universal parece ser criada na maioria das construções utópicas e aparentemente é um dos fatores explicando sua estabilidade. Consenso universal significa, por implicação, ausência de conflito estruturalmente gerado. De fato, vários autores de utopias vão a distâncias consideráveis para convencer sua audiência de que em suas sociedades conflito sobre valores ou organização institucional é impossível ou simplesmente desnecessário [...] Sociedades utópicas podem ser e, aliás, frequentemente são sociedades de castas; jamais sociedades de classes onde os oprimidos se revoltam contra seus opressores (DAHRENDORF p.116).[17]

Assim, o consenso sobre o que deveria ser equitativamente distribuído ou uma situação equitativa como *ponto de partida* corresponde à concepção de um governo cuja função e finalidade consiste na manutenção da ordem estabelecida. Se a igualdade já é pressuposta, ela é, portanto, tida como existente e como algo a ser defendida. A norma universalizável torna-se então o parâmetro a ser mantido, contra

[15] utopias do not grow out of familiar reality following realistic patterns of development. For most authors, utopias have but a nebulous past and no future; they are suddenly there, and there to stay

[16] every normative theory of social arrangement that has at all stood the test of time seems to demand equality of *something* – something that is regard as particularly important in that theory

[17] Suffice it to note that the assumption of universal consensus seems to be built into most utopian constructions and is apparently one of the factors explaining their stability. Universal consensus means, by implication, absence of structurally generated conflict. In fact, many builders of utopias go to considerable lengths to convince their audience that in their societies conflict about values or institutional arrangements is either impossible or simply unnecessary [...] Utopian societies may be and, indeed, often are caste societies; but they are not class societies in which the oppressed revolt against their oppressors.

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qualquer pretensão de mudança imposta por um caso singular. A providência soberana, do paradigma iluminista/providencial, pode causar alguns prejuízos "calculados" em casos particulares, desde que o "bem comum" seja defendido e as regras gerais que regem o mundo, obedecidas.

Portanto, doravante pretende-se abordar a igualdade de todos perante a lei como um fim almejado e não como uma realidade já posta ou efetiva. Pois, não há tal coisa como uma realidade social independente da ação humana e disso se infere que a realidade social é uma *produção*. Logo, o ponto de partida apresenta-se como a *desigualdade inerente* aos seres humanos enquanto tais, porque é impossível tornar igual aquilo cujas diferenças são desconhecidas. Portanto, a premissa é que a situação atual é algo que o Direito deve sempre se propor a *melhorar* ao invés de *conservar*.

ii. Porque "é comum a todos os significados de princípios o fato de ser o primeiro termo a partir do qual algo é ou é gerado ou é conhecido" (ARISTÓTELES, *Metafísica,* Delta 1, 1013a 17ss.), o Direito se institui como o princípio de uma sociedade. Enquanto conjunto totalizante de regras constitutivas[18], o Direito determina que o indivíduo social não pode ser excluído, como acontece com a pessoa à margem de uma comunidade. "[A]s normas chamadas constitutivas, não prescrevem um ato determinado nem regulam um estado de coisas preexistente, mas fazem elas mesmas existir aquele ato ou estado de coisas" (AGAMBEN 2014, p.78). São tais regras constitutivas que distinguem uma sociedade de uma comunidade e segui-las só é possível eticamente, ao invés da adequação Moral de um ato singular a um padrão valorativo determinado pelo bem comum.

Assim, fazer parte de uma sociedade constitui uma forma de vida democrática vinculada ao Direito. "Uma forma de vida seria, por conseguinte, o conjunto de regras constitutivas que a definem. [Mas] não se poderia dizer antes, e com a mesma verdade, que é a forma de vida [do cidadão] que cria suas regras?" (AGAMBEN 2014, p.79) Por isso não é o Direito ou a Moral que estabelece a forma de vida que as pessoas podem viver em uma sociedade porque *a letra da lei não serve como fundamentação para a ação jurídica*, pois

> a própria ideia de uma regra constitutiva implica que venha a ser neutralizada a representação corrente segundo a qual o problema da regra consistiria simplesmente na aplicação de um princípio geral a um caso particular, ou seja, segundo o modelo kantiano de juízo determinante, numa operação meramente lógica. O projeto cenobítico [vida em comum, vida em sociedade], deslocando o problema ético do plano da relação entre norma e ação para o da forma-de-vida, parece por novamente em questão as próprias dicotomias entre regra e vida, universal e particular, necessidade e liberdade, pelas quais estamos habituados a compreender a ética (AGAMBEN, 2014. p.79).

Mas a Ética, responsável por um bem apropriado, dá vida ao Direito que "se trata de uma escritura em si inerte, que deve ser *'posta em uso'* pela leitura" (AGAMBEN 2014, p.85 grifo adicionado). Por em uso significa profanar e restituir o Direito ao indivíduo membro da sociedade democrática e com isso conferir-lhe potência. Ao contrário do poder que conserva o padrão comportamental de uma comunidade, um Direito potente é capaz de fundamentar o dinamismo social composto pelo conjunto de ações sociais, que produzem e são produzidas por regras constitutivas de forma de vida.

iii. Ernest Renan, em sua clássica conferência *Qu'est-ce qu-une nation?* responde à pergunta do título indicando que "o consentimento atual, o desejo de viver em conjunto, a vontade de manter dignamente a herança indivisível que foi recebida"[19] são os elementos que mantêm unidos os membros de um povo e constituem uma nação. Mas o que seria tal "herança indivisível", o que pode gerar nas pessoas o consentimento e o desejo de viver em conjunto?

Analises como a de Agamben e Foucault indicam a fonte deste consentimento na proteção oferecida por um bando soberano[20] contra os abandonados e os bandidos que constituem o Outro que precisa ser identificado para que se possa criar uma identidade própria. Entretanto, para uma análise mais abrangente do Estado-nação moderno e seu vínculo forte e praticamente indissociável com a burguesia, é preciso levar em consideração o que Hobbes chamou de vontade de participar no *Commonwealth*.[21] Isto porque em *O Leviatã* não é defendido o argumento de que todos os humanos compartilham uma riqueza comum [*Commonwealth*] mas, ao contrário, apenas aqueles que partilham da riqueza comum é que devem sujeição absoluta ao bando soberano. Hobbes afirma que aqueles que não partilham da riqueza comum têm todo o direito de se rebelar contra o Estado, pois para estes é uma questão

[18] O exemplo de Wittgenstein é o do jogo de xadrez, que não existem anteriormente ao jogo, mas são constituídas pelas regras do jogo. "O bispo é a soma das regras pelas quais é movido." (Philosophische Bernerkungen p.325-6 apud in: AGAMBEN 2014 p.78)

[19] est le consentement actuel, le désir de vivre ensemble, la volonté de continuer à faire valoir l'héritage qu'on a reçu indivis.

[20] Em *Homo Sacer* Agamben demonstra a proximidade (ao ponto de identidade) dos conceitos de bando enquanto grupo e bandeira enquanto insígnia de um governante neste tipo de contexto. Minha própria utilização destes termos visa conservar esta identidade de significado.

[21] Aceitando "wealth" como a soma das coisas possuídas por indivíduos ou comunidades que constituem os meios para a obtenção de seus objetivos, usarei a definição de Rawls em que "wealth consists of (legal) command over exchangeable means for satisfying human needs and interests." (RAWLS, 1975. p.540)

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de sobrevivência resistir e não uma questão de justiça se submeter. A argumentação em *O Leviatã,* que separa aqueles dentro do *Commomwealth* e sujeitos ao Contrato Social de todos os outros, leva Hannah Arend à seguinte conclusão:

> Assumindo a premissa da guerra de todos contra todos, Hobbes fornece a melhor fundamentação teórica para aquelas ideologias naturalistas defensoras de nações como tribos, separadas umas das outras por natureza, sem qualquer tipo de conexão, inconscientes da solidariedade da humanidade e tendo em comum apenas o instinto de auto preservação que o humano compartilha com o mundo animal[22] (ARENDT, 1958. p.157).

Porém, há uma diferença marcante da proposta de Hobbes em relação ao argumento de Espinosa, em que a legitimação da lei de um Estado Democrático se dá pela conversão voluntária do direito natural[23] de cada cidadão em uma disposição em melhorar o Estado no qual se vive. A potência [*conatus essendi*] de cada particular transforma-se, em relação à sua especificidade, ao tornar-se potência coletiva (ESPINOSA, 2009). Potência em Espinosa significa desejo de plenitude, logo um livre projetar e capacidade de efetivar estes projetos.

O que busco destacar aqui é como em Hobbes há a dissociação entre os benefícios do poder e a responsabilidade de cuidar daqueles sobre os quais se exerce o poder, enquanto que em Espinosa há tal responsabilidade sem a qual a Substância política conheceria uma outra igual a si, o que é contraditório no pensamento do filósofo judeu. E a ruptura hobbesiana de modo algum é necessária. A tradição contratualista de matriz hobbesiana argumenta que "o ponto do dever ou obrigação do poder efetivo para fazer uma diferença […] emerge dos vários benefícios conjuntos por meio da cooperação, ou do comprometimento feito em algum contrato social" (SEN, 2009. p.270). E nesta tradição, se uma proposta não é eficiente em gerar benefícios *mútuos* ou cooperação, tal proposta não pode ser justa.

Já na leitura espinosiana, o benefício da coletividade alcançado pela ação *positivamente voluntária* do indivíduo é o objetivo. Como o indivíduo se enxerga parte da coletividade, um predicado da substância política na linguagem de Espinosa, ele pode se contentar com o benefício indireto de sua ação. Isto é impossível na concepção hobbesiana, onde submissão – uma ação voluntária *negativa* – ao poder inerente ao Estado é o que qualifica o cidadão. Assim o "poder torna-se a essência da ação política e o centro do pensamento político quando ele é separado da comunidade política à qual ele deve servir"[24] (ARENDT, 1958. p.138). E esta separação acontece exatamente no momento em que, para se formar uma comunidade de mútuos beneficiários da riqueza comum, um bando se julga soberano e determinando sua identidade por meio de um atributo qualquer, tal como língua ou etnia, se estabelece como exceção perante todos aqueles não intitulados a compartilhar da riqueza comum.

Deste modo, o pertencimento ao bando soberano surge como condição necessária, mas ainda não suficiente, para a participação na riqueza comum, para o uso de direitos. Logo, o Estado-nação moderno demanda a assimilação, e não apenas a integração, de indivíduos que buscam compartilhar a riqueza comum. O requerimento de consenso ativo de uma população homogênea a seu governo faz com que o Estado-nação tenha então "de assimilar ao invés de integrar, de impor consentimento ao invés de justiça, ou seja, de se degenerar em uma tirania" (ARENDT, 1958. p.125). E quando a potência estatal, a capacidade de dinamismo e mudança social, é entendida como poder e razão de Estado, pode-se ter a certeza de que não se vive em uma democracia. Governo é um termo que quando vinculado tão intimamente à manutenção da paz ou ordem social "designa uma prática e um saber não epistêmico que, em si mesmo, até podem parecer não conformes ao bem e só devem ser julgados no contexto das finalidades que perseguem" (AGAMBEN, 2011. p. 33). No Direito Universal tal utopia se manifesta como a pretensão de estabilização de expectativas e manutenção de uma ordem jurídica.

iv. O Estado Democrático moderno se constituiu fundamentado na tríade Estado-povo-território. Entretanto, esta tríade jamais se deu de modo totalizante, mas apenas como uma pálida universalidade. Universal, como os preceitos da racionalidade iluminista, é algo que se estabelece como determinado pela identidade formada por semelhanças. Já em Aristóteles, o conhecimento científico [*epistéme*] sempre se refere ao universal e o universal é alcançado pela abstração das semelhanças presentes em vários singulares, mas a singularidade mesma de cada indivíduo é anulada, permanecendo apenas o que este tenha em comum com semelhantes. Assim, a vontade geral, uma vontade universal, representaria as semelhanças das vontades individuais de um povo que constitui uma nação. E o povo cuja vontade pode ser universalizada é composto a partir da identificação de algum predicado que o separe dos demais povos.

[22] With the assumption [of the war of all against all], Hobbes affords the best possible theoretical foundation for those naturalistic ideologies which hold nations to be tribes, separated from each other by nature, without any connections whatever, unconscious of the solidarity of mankind and having in common only the instinct of self preservation which man shares with the animal world

[23] O entendimento de "direito natural" em Espinosa e Hobbes é suficientemente próximo para ser necessária qualquer distinção na presente argumentação.

[24] Power became the essence of political action and the center of political thought when it was separated from the political community which it should serve

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Mas e quando em um mesmo território há mais de um povo e estes grupos se encontram em desigualdade estrutural como ocorre no Brasil? Pois a supremacia branca manifesta no racismo estrutural brasileiro é representação significativa desta situação. E quando uma vontade individual se apresenta racional e intersubjetivamente sustentável, mas se opondo às semelhanças da maioria que comporiam a vontade geral? Se o Estado-nação moderno pretende dar as condições para a concretização do projeto iluminista de seres humanos pensarem por si mesmos e não subordinados a uma autoridade, como uma segurança jurídica, fundamentada na autoridade institucional do legislador representante da vontade geral, pode ter qualquer pretensão de coerência e racionalidade?

O que está em jogo aqui é a inversão da antiga definição do poder de um governante na qual o Estado deixa viver e faz morrer. Representado pela fórmula de Foucault na qual o Estado-nação moderno faz viver e deixa morrer, tal inversão delimita o alcance do Direito contemporâneo. Ao conferir direitos universais somente ao cidadão nacional, o Estado nega à exceção o direito à igualdade de tratamento, com a qual a potência estatal pode ser dirigida à melhoria das condições de vida humana em seu território, independentemente do beneficiado ser um cidadão nacional, um refugiado, ou algum outro tipo de marginal. Se o refugiado e o marginal, símbolos da presença de pessoas possuidoras de direitos e deveres em um território, mas fora do enquadramento jurídico, "representa, no ordenamento do Estado-nação, um elemento tão inquietante, é antes de tudo porque, rompendo a identidade entre homem e cidadão, entre natividade e racionalidade, põe em crise a *ficção* originária da Soberania" (AGAMBEN, 2015a. p.29 grifo adicionado).

O Direito Universal, de molde iluminista/ providencial, almeja um estado de controle institucional da sociedade no qual um *status quo* estabelecido pelo governo da lei possa ser mantido. E quando confrontado por um caso fora da lei, esta exceção deve ser trazida para dentro do ordenamento nos termos deste ordenamento, ou mantida fora se seu desvio não ameaçar o *status quo* que a lei busca manter.[25] "Os paradigmas do governo e do estado de exceção coincidem na ideia de uma *oikonomia*, de uma práxis gerencial que governa o curso das coisas, adaptando-se a cada vez, em seu intento salvífico, à natureza da situação concreta com que deve medir forças" (AGAMBEN, 2011. p.64).

A questão fundamental que a soberania e a segurança jurídica, pensadas nestes termos, ignoram para a perdição da nação é que *"se alguém tem o poder de fazer uma diferença que ele ou ela percebe que irá reduzir a injustiça no mundo, então aí está um argumento racional forte para fazer exatamente isso (sem precisar vestir isso tudo em termos de uma imaginada vantagem Prudente em um hipotético exercício de cooperação)"*[26] (SEN, 2009, p.271 grifo adicionado). Quando "segurança jurídica" indica que uma pessoa precisa de atender algum pré-requisito meritório (como pertencimento a um povo ou condição de cidadão nacional) para poder usar seus direitos mais básicos, a condição humana é posta em cheque e a humanidade reduzida a algum predicado cultural de identificação de um povo. E somente se fosse possível sustentar coerentemente que a segurança jurídica deve implicar em que seres humanos não sejam tratados de acordo com suas ações e opiniões, então a análise de H. Arendt sobre declínio do Estado-nação deixaria de fazer sentido:

> Algo muito mais fundamental que liberdade e justiça, que são direito do cidadão, está em jogo quando pertencimento à comunidade na qual alguém nasceu não é mais uma coisa óbvia e o não pertencimento não é mais uma questão de escolha, ou quando alguém é colocado em uma situação em que, a menos que cometa um crime, o tratamento recebido dos outros não depende do que este alguém faz ou deixa de fazer. Este extremo e nada além, é a situação de pessoas alijadas de direitos humanos. Eles são alijados não de seu direito a liberdade, mas do direito de ação; não do direito de pensar o que quiserem, mas do direito a opinião[27] (ARENDT, 1958. p.296).

Como diz Agamben, somente se um governo da lei não puder suprimir a liberdade "o paradigma providencial do governo dos homens não é tirânico, mas democrático" (2011, p.154). A supremacia branca no Brasil e o racismo estrutural decorrente, ao implicar na supressão da liberdade de pessoas de cor, torna o Direito brasileiro tirânico sob qualquer análise factual que se assuma.

v. Quando o conceito de segurança jurídica é concebido no paradigma do Estado-nação moderno ele gera a situação do *Homo Sacer*, aquela pessoa matável, mas não sacrificável. Isto

[25] Compare-se com o argumento de Kelsen, no capítulo 5 de *Teoria Pura do Direito*, de que o quadro do Direito se amplia somente se um "intérprete autêntico" da lei o fizer em uma decisão judicial. Em oposição, ressalte-se como alguém sem um comprovante de endereço, por exemplo um morador de uma Ocupação, é alijado de serviços públicos ditos "universais" como uma vacinação pelo SUS no posto de saúde mais próximo de sua casa.

[26] if someone has the power to make a difference that he or she can see will reduce injustice in the world, then there is a Strong and reasoned argument for doing just that (without having to dress all this up in terms of some imagined prudential advantage in a hypothetical exercise of cooperation).

[27] Something much more fundamental than freedom and justice, which are rights of citizens, is at stake when belonging to the community into which one is born is no longer a matter of course and not belonging no longer a matter of choice, or when one is placed in a situation where, unless he commits a crime, his treatment by others does not depend on what he does or does not do. This extremity, and nothing else, is the situation of people deprived of human rights. They are deprived, not of the right to freedom, but of the right to action; not of the right to think whatever they please, but of the right to opinion.

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> porque o assim chamado poder constituinte já sempre se estabeleceu previamente como um poder constituído na forma de um bando, ou bandeira, soberano. O *Homo Sacer* representa, assim, o marginal alijado da riqueza comum [*commonwealth*] que compõe o Estado na matriz contratualista. Se há qualquer pretensão de eticidade no conceito de segurança jurídica entendida como submissão à Constituição, então "não se trata de conceito ético genuíno, porque nenhuma ética pode ter a pretensão de excluir de seu âmbito uma parte do humano, por mais desagradável, por mais difícil que seja de ser contemplada" (AGAMBEN, 2010a. p.71).

Uma Constituição vindica[28] as concepções de Justiça de um Estado, conferindo o direito a *qualquer pessoa* de reivindicar os compromissos que aquelas vindicações impõem ao Estado-nação. Uma Constituição enquanto "regra supõe uma precedência da escritura, mas se trata de uma escritura em si inerte, que deve ser *posta em uso* pela leitura" (AGAMBEN, 2014. p.85). Segurança jurídica requer, portanto, a *liberdade* que confere, além de potência ao Estado, vida à linguagem jurídica. "Uma língua morta é, pois, aquela na qual não se pode opor norma e anomia, inovação e conservação. De tal língua diz-se com razão que não é mais falada, ou seja, que *nela é impossível assinalar a posição de sujeito*" (AGAMBEN, 2010a).

Quando Heidegger[29] fala em liberdade como fundamento do fundamento (1998, p.89), ele sustenta o argumento de que o homem pode buscar o fundamento de seu existir sem estar preso a nenhuma determinação de princípio. Esta liberdade, porém, é entendida e apresentada como algo próprio ao existir humano e não como a execução da vontade do homem. O fundamento, a pergunta pelas causas é fundada pela liberdade. Perguntamos pelo *por que* quando julgamos que aquilo sobre o que perguntamos poderia ser diferente. Neste livre perguntar transcendemos o mundo, a liberdade permite que nos relacionemos com o mundo sem uma pré-determinação. Esta transcendência é uma situação não causada ou fundada, mas a condição de fundamento e causa. A liberdade de transcender "já sempre" abarca o ser-lançado-no-mundo. Esta é nossa condição de ser-no-mundo.

O apelo à Justiça se dá, então, na perplexidade de perceber que a situação atual poderia, deveria até, ser diferente. Portanto, o fundamento do apelo à Justiça é a liberdade fundante da transcendência humana. Não há como se dar Justiça no âmbito ôntico, pois ela só pode se dar ontologicamente. Ou, em outros termos, sem a liberdade como fundamento, conceitos como "segurança jurídica", "constituição" e "justiça" tornam-se "glossolálias (no sentido de I Cor14), palavras cujo significado foi esquecido, palavras humanas imemoriais, que esgotaram todas as possibilidades de sentido e agora, perfeitamente transparentes, jazem acabadas, isto é, intactas e in-concebíveis" (AGAMBEN, 2015c. p159).

f) Democracia como forma de vida fundamentada no uso de direitos

i. O elemento fundamental da liberdade democrática consiste na concepção de que uma pessoa é obrigada normativamente não por uma regra, mas pela sua compreensão da regra. Pois a autonomia é a base da democracia. Logo, a questão central do uso de direitos se torna por qual razão um sujeito racional, ao decidir como agir, podendo suprimir injustiças, não faria exatamente isso? Para tanto, parte-se da compreensão de que a ação de um sujeito se torna inteligível por meio das razões que ele livremente escolhe como fundamento de sua atividade. Contudo, por conta da força coercitiva que é inerente ao Direito, por meio da atividade jurídica uma teoria da justiça mal concebida pode destruir vidas. Pois o conceito de justiça se apresenta como garantia da legitimidade da compreensão de uma regra e uma ação jurídica que seja qualificada como justa será tomada como apropriada.

Ora, é impossível seguir uma regra de modo solipsista e a alterando a cada vez. Seguir uma regra consiste em estabelecer critérios para que outro sujeito possa inteligir sua ação ao se referir à regra em questão. Deste modo, seguir uma regra é uma atividade realizada intersubjetivamente. Um indivíduo que não reconheça a alteridade das demais subjetividades em meio às quais está corrompe a realidade ao reduzí-la às suas próprias projeções. E sem uma alteridade a reconhecê-la, uma subjetividade é incapaz de determinar uma identidade a si mesma e, portanto, se constituir enquanto subjetividade que atua no mundo.

O recurso à alteridade como elemento que permite inteligibilidade a uma dada atividade é expandido aqui como hipótese para a compreensão do uso de direitos e da prática jurídica. Segundo esta

[28] Vindicação é a escolha para traduzir o termo técnico *Claim* de Robert Brandom. A escolha de uma palavra pouco usual na língua portuguesa se dá no intuito de indicar que um *Claim* não é mera enunciação, pois vincula o falante aos compromissos (*commitment*) da vindicação. Além disso, a forma que seria mais comum, reivindicação, aponta para uma nova instância, um novo evento de linguagem, por meio do prefixo "re". Porém, se o autor é intitulado (*entitlement*) a recorrer ao Direito para corrigir uma situação injusta (como defendo no atual trabalho), então ele não pode se prender ao que já foi vindicado e apenas re-invidicar, mas deve ser capaz de decidir a partir de si próprio qual direito possui e como este pode ser usado.

[29] O conceito de segurança jurídica que busco refutar no atual texto se aproxima bastante daquilo que Heidegger chama de *Gestell*, cujo perigo é exatamente a supressão desta liberdade transcendente e a determinação de um fundamento rígido e estabelecido anteriormente ao evento com o qual se relaciona.

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hipótese, a atuação do Direito em uma sociedade, especialmente em uma Democracia, faz-se inteligível por conta dos efeitos gerados nos demais âmbitos sociais. Com isso, demarca-se radicalmente que a análise do Direito *somente* pelo Direito é idiota, em um sentido rigoroso do termo idiota. Pois ao necessariamente se reportar a um conjunto de regras a atividade jurídica não é capaz de se tornar inteligível referindo-se apenas ao Direito, sendo necessário o debate com razões meta-jurídicas. Portanto, a compreensão do Direito requer fundamentação Ética. Afinal, se o Direito não gerar eficácia social ele já não poderá ser compreendido como Direito. E se o uso de direitos for fonte de efeitos sociais, então tal uso precisa ser justificado, caso contrário a coerção decorrente do modo como o Direito afeta a vida das pessoas será violência sem razão. O Direito não é intitulado a tratar o restante da sociedade como *ceteris paribus*.

ii. A Justiça só pode ser alcançada quando há o reconhecimento de que o Direito não é um mero conjunto de regras para mediar conflitos. Antes, é uma garantia de que cada individuo terá a autoridade do uso responsável dos direitos. Entretanto, no moderno Estado-nação estes direitos, que podem ser classificados entre direitos "civis", "políticos" e "sociais", se constituem como predicados de cidadania, separando um grupo de pessoas legitimadas enquanto cidadãos que possuem direitos daqueles tidos como marginais. Habermas afirma o seguinte sobre os direitos:

> Segundo esta divisão, os direitos liberais de defesa protegem o sujeito de direito privado contra intromissões ilegais do Estado na vida, liberdade e propriedade; os direitos de participação política possibilitam ao cidadão ativo uma participação no processo democrático da formação da opinião e da vontade; e os direitos de participação social garantem ao cliente do Estado do bem-estar segurança social e um rendimento mínimo (Habermas, 1997, p.107).

A compreensão de direitos como algo possuído por cidadão pode ser desenvolvida a partir de sua fundamentação na liberdade e vinculada a um elemento jurídico. Em sua apresentação dos autores ingleses do séc. XVII que fundamentariam este vínculo entre direitos e liberdade Skinner afirma:

> Quando os teóricos neo-romanos discutem o significado da liberdade civil, eles geralmente deixam claro que estão se referindo ao conceito em um sentido estritamente político. Eles são desconhecedores da noção moderna de sociedade civil como um espaço moral entre governantes e governados e tem pouco a dizer sobre as dimensões da liberdade e opressão inerentes em tais instituições como a família ou o mercado de trabalho. Eles se concentram quase exclusivamente na relação entre as liberdades dos sujeitos e os poderes do Estado. Para eles a questão central é sempre acerca da natureza e das condições que precisam ser atendidas para que as demandas contrastantes da liberdade civil e da obrigação política sejam atendidas tão harmoniosamente quanto possível.
>
> Quando considerando esta questão, estes autores geralmente assumem que a liberdade que descrevem pode ser igualada com – ou mais precisamente, declarada como – o gozo intransigente de direitos civis específicos (SKINNER, 1998, p.17).[30]

Os direitos civis específicos remetem à compreensão romana do status jurídico de homem livre (o cidadão romano) em oposição ao de escravo. O conceito jurídico da escravidão romana é apresentado em *De statu hominis* no Digest onde é apresentada a definição na qual o escravo é "alguém que, contrariamente à natureza, é propriedade de outra pessoa". Esta concepção é uma conseqüência da adoção da metáfora de corpo político. Logo, uma das premissas compartilhadas pelos autores e apresentada por Skinner "é que qualquer entendimento do que significa para um cidadão individual possuir ou perder sua liberdade deve ser inserida dentro de uma consideração sobre o que conta para uma associação civil ser livre"[31] (SKINNER, 1998, p.23). Os autores ingleses do séc.XVII assumem que a perda de liberdade de um corpo político deve significar o mesmo que no caso de um sujeito individual, ou seja, se tornar escravo. Assim, a questão passa por compreender o que constitui a situação de servidão.

A compreensão da liberdade civil parte da

> distinção entre aqueles que são, e os que não não, *sui iuris*, detentores de seus próprios direitos ou jurisdição. Um escravo é um exemplo – a criança de um cidadão romano é outro – de alguém cuja falta de liberdade resulta do fato que eles são sujeitos à jurisdição de outrem e, consequentemente, estão 'sob o poder' de outra pessoa[32] (SKINNER, 1998, p.40-41).

[30] When the neo-roman theorists discuss the meaning of civil liberty, they generally make it clear that they are thinking of the concept in a strictly political sense. They are innocent of the modern notion of civil society as a moral space between rulers and ruled, 5 2 and have little to say about the dimensions of freedom and oppression inherent in such institutions as the family or the labour market. They concern themselves almost exclusively with the relationship between the freedom of subjects and the powers of the state. For them the central question is always about the nature of the conditions that need to be fulfilled if the contrasting requirements of civil liberty and political obligation are to be met as harmoniously as possible.
When considering this question, these writers generally assume that the freedom or liberty they are describing can be equated with - or, more precisely, spelled out as - the unconstrained enjoyment of a number of specific civil rights

[31] any understanding of what it means for an individual citizen to posses or lose their liberty must be embedded within an account of what it means for a civil association to be free.

[32] the distinction of those who are, and those who are not, *sui iuris*, within their own jurisdiction or right. A slave is one example – the child of a Roman citzen is another – of someone whose lack of freedom derives from the fact that they are "subject to the jurisdiction of someone else" and are consenquently within the power of another person.

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Por meio da liberdade republicana, os direitos do cidadão podem ser compreendidos como a capacidade de um indivíduo de reclamar a força do Estado de acordo com a lei, à qual este indivíduo pode reivindicar a legislatura. Com a condição de o indivíduo sempre se reportar á *sua própria vontade* como fonte da ação.

Outro elemento que compõe a compreensão de posse de direitos pode ser qualificado como a independência dos cidadãos em relação aos governantes. Aqui reside um perigo de anomia, constituído pela capacidade de associações civis estabelecidas bloquearem mudanças estruturais significativas, mantendo relações de desigualdade e dominação. Segundo Robert Dahl "sujeitos podem ganhar um grau de independência de seus governantes em questões de importância a si mesmos se eles conseguirem tornar os custos da dominação tão altos que o custo da dominação não mais valha a pena aos governantes" (DAHL, 1982) e os custos de dominação podem ser aumentados por meio do pluralismo organizacional, configurando a efetivação de direitos civis.

A anomia se manifesta por conta da diferença de contexto do debate inglês do séc. XVII e do debate democrático contemporâneo. Pois o pluralismo organizacional no contexto de cidadãos reclamando independência em um regime autoritário é grito de liberdade, mas em uma democracia ele tende a desenvolver um padrão estagnado de auto preservação. Pois é comum que a acomodação de conflitos importantes pelas organizações envolvidas resulte em manutenção do *status quo*, incluindo aí as desigualdades sociais.

> Apesar de tal sistema ser tido como em equilíbrio, seria mais adequado dizer que entre os maiores interesses organizados há uma acomodação mútua ou *détente*. Quando isso ocorre, *o pluralismo organizado é uma força estabilizadora que é altamente conservadora em face das demandas por mudanças estruturais inovadoras.* Cada força organizada majoritária no país evita as outras de realizar mudanças que possam danificar seriamente seus interesses. Consequentemente, reformas estruturais que iriam rápida e significativamente redistribuir controle, status, renda, riqueza e outros recursos se tornam impossíveis – *a menos, ironicamente, que elas sejam feitas às custas daqueles desorganizados.* Deste modo, uma força poderosa que em regimes autoritários carrega o inequívoco odor da revolução podem em países democráticos reforçar fortemente o *status quo*. [...] As desigualdades às quais o pluralismo organizacional contribui seriam menos conseqüenciais se pluralismo fosse invariavelmente uma força dinâmica com um impulso mais ou menos constante em direção à redução de desigualdades. Nenhuma fundamentação teórica que conheço jamais avançou para demonstrar que tal dinâmica exista[33] (DAHL, 1982, grifo adicionado).

A questão a ser enfrentada aqui, pois, é o discurso de "direitos" que vincula necessariamente Direito e juridicidade, no qual os direitos são tratados como possuídos pelos cidadãos e garantidos pelo Estado. Este tipo de discurso formaliza a realidade social ao reduzir a sociedade ao Direito se estabelecendo como uma patologia social. "No contexto da teoria social, podemos falar em 'patologia social' sempre que a relacionarmos com desenvolvimentos sociais que levem a uma notável deterioração das capacidades racionais de membros da sociedade ao participar da cooperação social de maneira competente" (HONNETH, 2015 p.157).

E se tratado em termos de mera mediação de conflito, o Direito se apresenta apenas como uma ferramenta de dominação social. Esta noção jurídica sustenta a anomia que permeia a análise da sociedade moderna dividida entre opressores, seja o Estado "tirânico" ou o dono do capital que goza das benesses sociais e oprimidos que só se enquadram na sociedade enquanto engrenagens da infraestrutura. "Sendo assim, o sistema institucionalizado da liberdade jurídica representa uma porta de entrada para tais patologias, uma vez que se exige dos participantes um elevado grau de abstração, razão pela qual vão se acumulando regularmente erros de interpretação" (HONNETH, 2015 p.159).

O Direito concebido nesta perspectiva possui a função de estabilizar as expectativas na resolução de conflitos entre vontades. Sua finalidade consistindo na limitação do escopo possível de decisões jurídicas. Porém, a fundamentação formal permite ao sistema apenas uma abertura simbólica inoperante. Uma análise que reconhece o indivíduo como um agente que converte a abertura simbólica de um sistema em fonte de eficácia social permite reconhecer anomalias normativas e a partir disso a correção destas. Uma anomalia normativa consiste em um quadro social de anomia no qual o discurso legitimador de cada

[33] Although such a system is sometime said to be in equilibrium, it would be more accurate to say that among the major organized interests there is a mutual accommodation or détente. When this happens, organized pluralism is a stabilizing force that is highly conservative in the face of demands for innovative structural change. Each of the major organized forces in a country prevents the others from making changes that might seriously damage its perceived interests. As a consequence, structural reforms that would significantly and rapidly redistribute control, status, income, wealth, and other resources are impossible to achieve— unless, ironically, they are made at the expense of the unorganized. In this way, a powerful social force that in authoritarian countries carries with it the unmistakable odor of revolution can in democratic countries strongly reinforce the status quo. [...] The inequalities to which organizational pluralism contributes would be less consequential if pluralism were invariably a dynamic force with a more or less steady thrust toward the reduction of inequalities. No theoretical reasoning I know of has ever been advanced to demonstrate that such a dynamic exists.

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instituição não consegue se determinar como fonte de efetividade social. Desta maneira é fundamental, para se curar a patologia social em que se tornou o Direito moderno, lembrar que:

> Frequentemente, o Direito teve tão somente a função de uma legalização posterior de melhorias a que já se chegou por meio da luta, mas essa fixação estatal ocasionalmente ou não era possível, ou era desnecessária, e assim os progressos bem logrados refletiram-se apenas em modificações de costumes e práticas. O motor e o meio dos processos históricos da realização dos princípios da liberdade institucionalizada não é o Direito, ao menos não em primeiro lugar, mas as lutas sociais pela adequada compreensão desses princípios e as mudanças de comportamento dai resultantes. Por isso, a orientação das teorias da justiça contemporâneas pelo paradigma do Direito também é um equívoco; é o caso de se considerar muito mais, em igual medida, a sociologia e a historiografia, já que é inerente a essas disciplinas dirigir sua atenção às mudanças do comportamento moral cotidiano (HONNETH, 2015, p.630).

iii. Uma resposta às anomias jurídicas foi proposta como a imparcialidade valorativa defendida pelo liberalismo político. A ação jurídica seria justa se atendesse às condições de uma Justiça Procedimental Pura. Respeite o procedimento e a Justiça seguirá.

> A marca característica da justiça procedimental imperfeita é que enquanto há um critério independente para o resultado correto, não há procedimento viável que garanta tal resultado.
>
> Ao contrário, justiça puramente procedimental é alcançada quando não há critério independente para o resultado correto: ao invés há um procedimento correto ou justo de tal modo que o resultado é semelhantemente correto ou justo, qualquer que seja, desde que o procedimento tenha sido devidamente seguido..[34] (RAWLS. p.86)

Rawls opõe o bom ao correto, dando primazia a este último (RAWLS, 1988), por considerar o bem como um elemento substantivo manifestado na escolha do arranjo institucional individual. Assim, ele favorece um argumento, a justiça procedimental pura, que possibilitaria a construção de um arranjo institucional livre de qualquer viés individual. Porém, se o Estado for compreendido como uma ordem jurídica cuja segurança constitui um fim em si mesmo, a política se manifesta como manutenção desta ordem e o Direito como o direcionamento do aparato estatal para estabilizar expectativas. Ao contrário, se a política e o Direito forem compreendidos como um meio para melhorar as condições da vida humana, então se resgata a relação originária entre direitos e liberdade e o Direito se torna a via pela qual o sujeito usa os direitos, ao invés de apenas possuí-los.

Pois o Bem não é uma única propriedade substantiva que nos dá razões para promover ou preferir as coisas que a possua. Ao invés, chamar algo de bom é declarar que esta coisa possui outras propriedades (diferentes a cada caso) que fornecem tais razões. Logo, o Bem é apropriado, ao invés de criado ou gerado pela vontade individual. O modo de pensar a respeito do bem proposto aqui demanda tratar o Bem como conteúdo *de re*, como aquilo *sobre* o que se trata o discurso. A definição do bem, por ser simplesmente conteúdo *de dicto* pode variar livremente, desde que compreendidos em termos da interação inferencialmente articulada entre *autoridade* e *responsabilidade*.

Ao se fazer uma assertiva, designa-se ao conteúdo asseverado a autoridade do falante, licenciando outros a assumir um compromisso correspondente para usá-la como premissa em *seus* raciocínios. Assim, um aspecto essencial deste modelo de prática discursiva é *comunicação*, que consiste na "herança interpessoal e intraconteudística de intitulamento para compromissos".[35] (BRANDOM, 2001 p.165) O emissor, ao realizar um ato de fala assume necessariamente uma *responsabilidade* – justificar a vindicação se apropriadamente questionado e, portanto, redimir o intitulamento ao compromisso reconhecido pela reivindicação. "Logo, outro aspecto essencial deste modelo de prática discursiva é *justificação*: a herança intrapessoal e interconteudística do intitulamento para compromissos"[36] (BRANDOM, 2001 p.165).

Portanto, o *Bom Correto* estabelece que *vindicar um bem e não se responsabilizar por ele invalida a vindicação.* Assim, se se reconhece que o correto não é suficiente no âmbito político, passa-se a buscar o Bom Correto. A expressão 'bom correto' associa o elemento *moral* (é a consciência racional individual a instância última acerca do que é bom ou mau) e os elementos *ético* (entre iguais e com morais diferentes há bens ou valores transubjetivos e que dizem respeito a todos e a cada um, independentemente de sua moral subjetiva ou grupal, e que o Estado de Direito Democrático tutela) e o *jurídico* (o equacionamento normativamente positivado das relações entre o bom moral subjetivo e o bom ético no espaço da convivência interpessoal e social de diferentes ou opostos).

[34] The characteristic mark of imperfect procedural justice is that while there is an independent criterion for the correct outcome, there is no feasible procedure which is sure to lead to it.
By contrast, pure procedural justice obtains when there is no independent criterion for the right result: instead there is a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, provided that the procedure has been properly followed.

[35] The interpersonal, intra-content inheritance of entitlement to commitments

[36] Thus another essential aspect of this model of discursive practice is justification: the intrapersonal, intercontent inheritance of entitlement to commitments.

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Para se vindicar um bem é preciso que se possua alguma sapiência sobre a ideia de *melhor*. O agir humano se fundamenta exatamente em se apropriar da verdade de que não há melhor opção do que esta que meu interesse produz.[37] Esta verdade se dá como uma elocução cujo conteúdo conceitual consiste em um paradigma holisticamente consistente e o compromisso daquele que vindica o bem em questão deve ser tal que sirva de razão suficiente para a eficácia social desejada pelo autor da elocução e como premissas em inferências materiais de seus interlocutores. A posição defendida aqui toma julgamentos de certo e errado como declarações a respeito de razões – mais especificamente sobre a adequação de razões para se aceitar ou rejeitar princípios sob determinadas condições. Se se propõe como condição necessária da democracia a promoção do bem comum, opõe-se a questão de quem seria capaz de se beneficiar *propriamente* deste bem. Afinal, somente de um bem que seja próprio a alguém pode-se dizer que é um bem *apropriado*.

Um bem apropriado só pode ser algum bem tornado próprio por um sujeito singular. E por isso, a demanda de aceitação universal é extremamente coercitiva ao determinar o juízo moral como um silogismo cuja premissa maior seja um valor comunitário. Raciocínios éticos, por outro lado, são modais e dependentes-de-atitude. Logo, no modo de se fundamentar a ação ética proposto é permitido aquilo que não se mostre razoavelmente rejeitável e de que se assume a responsabilidade. E o elemento distintivo de uma democracia é que todo cidadão é intitulado, pelo simples fato de ser uma pessoa vivendo em uma democracia, a demandar razões que atendam à responsabilidade assumida. Afinal,

> compromissos *consequenciais* podem não ser reconhecidos; nem sempre reconhecemos nossos compromissos para todas as consequências dos compromissos que reconhecemos. Eles são compromissos mesmo assim. Pois o único modo com que um *status* normativo conta para a especificação da avaliação de práticas assertivas é como objeto de uma *atitude* normativa[38] (BRANDOM, 1994, p.194).

Afinal, para a filosofia política em geral e ao Direito em particular não é suficiente tratar a verdade como um conteúdo descritivo da natureza, pois o Direito não busca *descrever* a sociedade, mas *regulá-la*. E "para se apreciar a importância da estratégia fenomenalista do pragmatismo, deve-se primeiro considerar o desenvolvimento da ideia fundamental de que locuções de verdade são indicadores-de-força, ao invés de especificadores-de-conteúdo"[39] (BRANDOM, 1994, p.296). Assim, a verdade jurídica é de caráter normativo e seu conteúdo possui força normativa inferencial. Esta é a diferença entre reagir à declaração "o sinal está vermelho" afirmando que a luz emitida pelo semáforo possui uma dada freqüência de ondas que corresponde ao que metalinguisticamente tenha-se determinado como "vermelho" e reagir à mesma declaração freando e parando o carro que se está conduzindo por saber que "sinal vermelho" implica em "sinal fechado".

Esta diferença decorre da premissa fundamental da semântica inferencialista, "na qual uma reação que tenha conteúdo *conceitual* é uma reação que exerça uma função no jogo *inferencial* de fazer vindicações, dar e pedir razões"[40] (BRANDOM, 2001, p.48). Isto porque "a semântica inferencialista é resolutamente *holística*. Em uma abordagem inferencial do conteúdo conceitual, alguém não pode possuir *qualquer* conceito a menos que possua *vários* conceitos"[41] (BRANDOM, 2001. p.15). Em um entendimento de verdade como força normativa das razões dadas, um sujeito sabe o que *significa* o sinal estar vermelho em razão de saber a *função* inferencial normativa de ter de reagir parando o carro. À representação descritiva da realidade é somada o indicativo expressivo da força normativa do conteúdo conceitual.

Pois "a noção de inferências formalmente validas é definida de modo natural a partir daquelas materialmente corretas, enquanto que não há rota inversa"[42] (BRANDOM, 2001, p.55). A função de inferências materiais é propiciar uma racionalidade *expressiva* na qual é tornado *explícito*, de um modo que se possa pensar ou dizer, o que está *implícito* no que é feito. Afinal, com o uso de termos e expressões condicionando o significado destes termos e expressões, tem-se a primazia da pragmática em relação à sintaxe na determinação da semântica. Consequentemente, por meio das inferências materiais da lógica expressiva pode-se ampliar o Direito para que ele se relacione com a sociedade quando esta recorrer

[37] *Inter-esse* ser em meio a, *pro-ducere* trazer à tona diante de. Com isso quero evitar a interpretação de que "meu interesse produz" signifique meramente uma auto projeção de um sujeito determinando, a partir de si e sem se reportar ao objeto em questão, do valor daquilo a que se dirige sua intencionalidade.

[38] Consequential commitments may not be acknowledge; we do not always acknowledge commitment to all the consequences of the commitments we do acknowledge. They are commitments nonetheless. For the only way that deontic statuses enters into scorekeeping specification of assertional practices is as objects of deontic attitudes.

[39] In order to appreciate the significance of the pragmatist's phenomenalist strategy, one must first consider the development of the basic idea that truth locutions are forceindicating, rather than content-specifying

[40] That for a response to have *conceptual* content is just for it to play a role in the *inferential* game of making claims and giving and asking for reasons.

[41] Inferentialist semantics is resolutely holist. On an inferentialist account of conceptual content, one cannot have any concepts unless has many concepts

[42] The notion of formally valid inferences is definable in a natural way from that of materially correct ones, while there is no coverse route.

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a ele para suprimir injustiças. Pois, conteúdos conceituais são determinados por inferências e inferências expressivamente explícitas são aquilo que nos permite expressarmos qualquer conteúdo conceitual que seja. Porque dizer qual é o conteúdo de uma lei significa dizer como este conteúdo será usado como premissa em inferências e nas ações do sujeito.

Assim, o uso de direitos se reporta ao seguinte esquema: 1) se uma ação resultar em uma situação de igualdade, de acordo com os padrões valorativos usados para avaliar a dada situação, então aquele que recebe o benefício desta ação usa um direito; 2) se uma ação resulta ou consiste em situação desigual, então o beneficiado goza não de um direito, mas de um privilégio; 3) se um dever não estiver vinculado ao uso de um direito, então ele deixa de ser devido; 4) um privilégio pode se legitimar como uso de um direito se a responsabilidade de beneficiar outrem for atendida e; 5) o individuo afetado pela ação é, pelo fato de ser afetado, intitulado a contestar a ação pondo-lhe fim ou estabelecendo limites de acordo com critérios intersubjetivos.[43]

Tal intitulamento se fundamenta, acima de qualquer outra coisa, na *responsabilidade dependente de atitude.* Para se compreender a legitimação do status normativo será útil dissolver a tensão gerada por uma ambigüidade entre autonomia e a *dependência de atitude do status normativo*, o que pode ser feito perguntando "atitudes de *quem*? O modelo de autonomia assume uma postura clara aqui: é a atitude daqueles que são responsáveis, isto é, aqueles sobre quem a autoridade é exercida"[44] (BRANDOM, 2009, p.67). Agir intencionalmente consiste em produzir e aquiescer um compromisso prático em um desempenho. Tal desempenho pode ser efetivado *com* razões, ou seja, sendo intitulado a realizar tal ação pelo reconhecimento conferido pelo interlocutor de que o agente atua de acordo com a responsabilidade assumida. Mas também pode ser efetivada *por* razões, que é o caso no qual a legitimação do compromisso prático é causada por um raciocínio apropriado.

É aqui defendido o argumento no qual, por meio de seu étimo, autor e autoridade se identificam e é nesse sentido que o sujeito político é capaz de usar seus direitos efetivando a liberdade democrática. Pois um indivíduo reivindica seu status normativo de sujeito não apenas autônomo, mas político "se reconhece a dependência de atitude do status normativo, mas se insiste que é a atitude daqueles *exercendo* autoridade, os superiores, ao invés das atitudes daqueles *sobre os quais* ela é exercida, os subordinados, que é a fonte do vínculo normativo"[45] (BRANDOM, 2009, p.67). Pois, ser livre no âmbito sócio-político democrático requer ser responsável por não permitir a anomia de que a sua liberdade seja fonte de dominação de outros.

Assim, o discurso que permite o que não pode ser razoavelmente rejeitado demanda que o grupo respeite as razões do indivíduo. Este tipo de discurso permite a promoção da liberdade, enquanto o mero agir pelo dever comunitário tolhe as possibilidades de se determinar o próprio modo de vida. Seguindo Brandom, respeitamos o princípio semântico de Frege, de que boas inferências nunca levam de premissas verdadeiras a conclusões que não são verdadeiras. E qualificando o que podemos *dizer*, *pensar* e *acreditar* como a apropriação das regras normativamente preservada por boas inferências, pode-se determinar um modo de vida livre de anomias por conta da coerência normativa dependente de atitude do sujeito democrático. O Bom Correto, enquanto regra constitutiva desta forma de vida, é capaz de livrar o sujeito democrático da situação de anomia. Pois o Bom Correto não é um dilema moral, mas uma questão ética.

iv. A linguagem jurídica constitui-se principalmente como comunicação. E ela requer que as regras, mesmo as implícitas na retórica, sejam explicitadas em sua normatividade. Nesta comunicação estão presentes pelo menos dois interlocutores e a cada momento do diálogo estes assumirão os papéis de falante e intérprete. A única característica que ambos compartilham, no contexto anterior ao estabelecimento do diálogo, é a posse de uma teoria prévia, particular, sobre o sentido da norma jurídica. O que implica em considerar uma teoria da linguagem livre do viés representacionista, que permita à pessoa reclamar seu lugar enquanto titular do Direito.

O que é expresso pelas especificações *de re* dos conteúdos das convicções dos outros é crucial para a *comunicação*. Estar apto a entender o que outros estão dizendo, no sentido que torna suas assertivas disponíveis para o uso como premissas nas inferências de alguém depende, precisamente, de estar apto a especificar estes

[43] O que apresento é, de certa maneira, o que Brandom chama de "*The Default and Challenge Structure of Entitlement*" (Making it Explicit, p. 176 ss) Observe-se também a nota 27 do capítulo 3: "Justificatory practices depend on entitlement-preserving inferences. But commitment-preserving inferences are also entitlement-preserving (though not conversely). If anyone who is commited to *p* is thereby commited to *q*, the only case in which entitlement to *p* plausibly would not carry with it entitlement to *q* is one in which the interlocutor is precluded from entitlement to *q* by concomitant commitment to something incompatible with it. But if *p* commitment-entails q, anything incompatible with *q* is incompatible with *p*, so under the circumstances described, the interlocutor could not be entitled to *p*."

[44] First, we can ask: whose attitudes? The autonomy model takes a clear stand here: it is the attitudes of those who are responsible, that is, those over whom authority is exercised.

[45] It acknowledges the attitude-dependence of normative statuses but insists that it is the attitudes of those exercising authority, the superiors, rather than the attitudes of those over whom it is exercised, the subordinates, that are the source of its bindingness.

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conteúdos *de re* e não meramente em termos *de dicto* (BRANDOM, 2001. p.180).[46]

Isto significa que as instituições não podem se engessar em linguagens técnicas, reforçando a burocracia. Ao contrário, um Direito livre do "juridiquês" é requisito para uma Democracia efetiva.

Ao engajarem em uma conversa os interlocutores convertem momentaneamente suas teorias prévias em transitórias. Uma teoria prévia pode ser implícita, mas a transitória demanda expressividade explícita. Isso porque na teoria transitória, se se aceita a racionalidade dos interlocutores[47], há um esforço por parte de cada participante para adequar sua fala ao ouvinte e para interpretar suas emissões. Uma interpretação correta da fala de alguém não pode ser realizada desconsiderando o conteúdo *de re* que o falante propõe para suas emissões. Aqui reside um problema fundamental.

Donald Davidson declara que o primeiro significado [*first meaning*] atribuído por um intérprete ao conteúdo *de dicto* da fala de alguém é o sentido-literal da expressão. A interpretação parte, então, de uma teoria prévia *possuída pelo intérprete*. No exercício da interpretação, esta teoria prévia converte-se momentaneamente em uma teoria de transição. Nesta teoria transitória ocorre uma significação dos termos *de dicto* compreendidos na teoria prévia, visando uma adequação com o conteúdo proposicional intencional *de re* atribuído pelo falante. Com esta significação o intérprete é capaz de dar sentido à proposição do falante. Entretanto há um perigo aqui, o mesmo "perigo da técnica" que Heidegger nomeia de Gestell. "A definição que conduz à ordenação é o perigo extremo. A essência da técnica [*Gestell*], como uma definição da revelação, é o perigo" (2010b, p.29).

Isto se dá por conta do caráter holístico da linguagem. Não se constrói ou se apropria de uma linguagem aos poucos, mas realiza-se um salto de intraduzibilidade com um interlocutor para o entendimento mútuo entre os comunicantes ao compartilharem de uma mesma linguagem. Deste modo a linguagem seria como uma fotografia que no quarto escuro vai se revelando cada vez mais nítida e determinada, não uma parte de cada vez, mas como um todo até que se torne inteligível. Porém, quando o intérprete possui uma segurança irrestrita em sua teoria prévia, quando ele considera que suas interpretações são as mais corretas possíveis, o processo de significação e ressignificação necessário para a teoria transitória é impossibilitado.

Para Davidson, entre dois sujeitos que não compartilham um mesmo jogo de linguagem há uma intraduzibilidade, que pode ser maligna ou benigna. Em caso benigno esta intraduzibilidade pode ser superada com uma explicação, como quando uma criança pede algo a um adulto que não a entende de imediato e pede para ela repetir o pedido. Este é o caso esperado de um servidor público encarregado de mediar ações judiciais. Pois, quem recebe a função de mediar um evento judicial deve possuir algum grau de conhecimento prévio sobre o assunto que media, ou então será inapto à função que lhe foi atribuída. Entretanto, para a execução correta de sua função, ele deve ser capaz de converter genuinamente sua teoria prévia em uma transitória que abra espaço à ressignificação.

No caso maligno, tal processo explicativo não é suficiente, pois o ouvinte não possui o arcabouço semântico para distinguir o significado das proposições do falante. Por exemplo, uma criança que por acaso estivesse numa palestra sobre Direito Internacional ou Metafísica. Mas também é o caso – e esta é a maior ameaça à segurança jurídica e à democracia – do agente público que, muitas vezes anestesiado pela repetição burocrática de suas funções, enrijece sua teoria prévia de tal modo que se torna incapaz de convertê-la em transitória.

O resultado jurídico-político dessa rigidez em uma democracia é a corrupção do "governo por debate" em "governo da maioria", a errônea noção de que um governo majoritariamente eleito – ou alguém que foi aprovado em um concurso público – possui a prerrogativa de exercer sua função ao gosto exclusivo de sua própria vontade.

Assim, é preciso que aquele que se encontra no polo inferior de uma intraduzibilidade maligna realize o salto que permita a ele distinguir os significados dos termos e expressões utilizados pelo falante desta linguagem não possuída. Com este salto é possível converter a intraduzibilidade maligna em benigna e, pelo intermédio de uma explicação, compreender aquilo que o falante diz. "Lá onde nasce o perigo, cresce também o poder de salvação." E o que um conceito democrático de segurança jurídica demanda é que o vicário estatal se reconheça neste polo inferior.

Em uma democracia, o Direito é ferramenta de liberdade e dinamismo social. Para tanto, ele deve ser capaz de assimilar todos os discursos sociais que recorrerem a tal instrumento. Portanto, segurança jurídica é, portanto, a necessária abertura jurídico-política que as instituições que compõem o Estado deve possuir para conferir a um sujeito a capacidade de se valer *racionalmente* do Direito.

[46] What is expressed by *de re* specifications of the contents of the beliefs of others is crucial to *communication.* Being able to understand what others are saying, in the sense that makes their remarks avaiable for use as premises in one's own inferences, depends precisely on being able to specify those contents in *de re*, and not merely *de dicto*, terms.

[47] Endosso aqui especialmente a apropriação de Robert Brandom da distinção kantiana entre ser obrigado por uma regra e ser obrigado pela concepção de uma regra, e a fundamentação pragmática da regra (argumento de *regress-of-rules* atribuído a Wittgenstein), como o significado de "racionalidade dos interlocutores".

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g) *O uso de direitos não se dá como fato jurídico, mas como evento social*

i. Kant distingue entre se sujeitar a uma lei e se sujeitar à concepção de uma lei. Uma pedra jogada ao alto está sujeita à lei da gravidade, mesmo sem ter nenhum entendimento sobre isso. Já um sujeito livre deve conhecer uma lei moral para poder segui-la. O que Kant não leva em conta nesta distinção é seu próprio argumento de que declarar que um estado-de-coisas segue uma lei é efetuar um juízo e que juízos são de responsabilidade do sujeito racional. Aos argumentos kantianos se opõe a questão se fenômenos possuem um único modo de aparição ou se eventos são indexados através de múltiplos modos?

Uma resposta possível é oferecida por lógicos, como Strawson, na qual um evento geralmente é concebido como mudanças ocorrendo em uma substância que serve de referência para avaliar o Evento. Assim, uma mudança só pode ser percebida como tal se se reconhece a permanência *daquilo que está sendo modificado*. Reconhece-se uma substância como o principal e detecta-se um acontecimento como uma transformação de suas características acessórias. Mantém-se a essência e percebe-se a modificação de seus predicados.

Entretanto, como se poderia conceber um Evento como, por exemplo, um relâmpago sem ter de se recorrer a uma substância que se altera. Pois um relâmpago não pode ser estabelecido como uma substância que sofre modificações, já que ele mesmo é o evento. Esta impossibilidade de univocamente atribuir uma substância ôntica (um ente, uma coisa) a eventos, como uma de suas características fenomenológicas, não diz respeito apenas a esta categoria de eventos, a saber, eventos onde a mudança não ocorre dentro de um sujeito. Já que "sujeito" – relâmpago, chuva – não é nada além do que seu próprio acontecimento. Portanto, *fenomenologicamente*, não há como estabelecer "fatos objetivos universalmente validos."[48]

Isto porque aquele que avalia as mudanças que constituem um evento está avaliando um fenômeno e ao estabelecer quem é o sujeito ao qual o fenômeno se apresenta, para quem aconteceu o Evento, determina-se uma perspectiva. Rui-se, portanto, a pretensão de um conhecimento objetivo a partir de um ponto de vista privilegiado e desinteressado. Considere, por exemplo, o Evento "a maçã cai": quando se pergunta: "para quem ou o que estes acontecimentos ocorrem?", a primeira resposta, não importa quão óbvia possa ser (para a maçã), é radicalmente insuficiente. O acontecimento de cair não ocorre apenas para a maçã, que enquanto sujeito formal lógico receberia novas características por meio de uma mudança em seus predicados: ela é uma maçã "madura" que "caiu no chão", onde antes era uma maçã "verde" em seu galho. Ao contrário, o acontecimento da queda pode ser descrito igualmente bem como acontecendo com a árvore (a macieira perde seu fruto), com o observador desta queda (Newton observa a maçã cair), ou para o pomar como um todo (uma maçã a mais está jogada no pomar). Assim, *um Evento não pode ser encarado e descrito como uma substância*, como um sujeito do qual se diz as qualidades. Fenomenologicamente um Evento não é hipostasiável.

Disso conclui-se: 1) Um acontecimento, considerado em si mesmo, não é da ordem dos entes ou coisas e não pode lhe ser designado um ser univocamente determinado; 2) A ausência de qualquer suporte ôntico determinado para designação distingue dois tipos de eventos: fatos intramundanos, por um lado, e eventos no sentido propriamente *ontológico*, por outro; 3) Há uma contraparte positiva para o sujeito ôntico de atribuição para que fatos intramundanos sejam fundamentalmente indeterminados: fatos não possuem uma designação ôntina unívoca, mas um *contexto de acontecimento* e só com relação a este contexto eles possuem sentido.

ii. É preciso distinguir rigorosamente Eventos de fatos. A distinção feita acima foi apenas introdutória. Enquanto fatos intramundanos ocorrem, estritamente falando, *para ninguém*, é bem diferente para eventos que ocorrem na vida humana concernente a mim *em particular*. Eventos devem poder se manifestar como fenômenos para alguém em ordem de serem tratados fenomenologicamente. Aqui se destaca uma premissa básica da Fenomenologia, um acontecimento propriamente dito só pode sê-lo para um sujeito, um objeto é sempre um objeto para uma intencionalidade. E isso implica em reconhecer que não há realidade social independente das pessoas que a compõem. Entretanto, seguindo Husserl, toda consciência é uma consciência de alguma coisa. E, logo, para que haja um sujeito é necessário que haja também uma realidade dada. Portanto, o Direito só pode tratar como verdade a realidade fenomenologicamente constituída.

Assim, um acontecimento ocorre enquanto tal, com suas próprias modificações intramundanas e, para

[48] Heidegger, em seu projeto filosófico de buscar uma verdade mais originária afirma que "na medida em que se compreende verdade no sentido natural da tradição como a concordância, posta à luz ao nível do ente, do conhecimento com o ente; mas também na medida em que a verdade é interpretada a partir do ser como a certeza do saber a respeito do ser, a *alétheia* o desvelamento como clareira, não pode ser identificada à verdade. Pois a verdade mesma, assim como ser e pensar, somente pode ser o que é, no elemento de clareira. Evidência, certeza de qualquer grau, qualquer espécie de verificação da *veritas*, movem-se já com esta no âmbito da clareira que impera" (HEIDEGGER, 1989a, p.79).

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colocar mais rigorosamente, *como* estas modificações mesmas. Para que este acontecimento ocorra enquanto tal é necessário que ele ocorra *para alguém*, que um sujeito esteja lá para presenciá-lo.[49] O que leva a uma nova distinção, que estabelece de modo geral que a diferença entre um fato intramundano e um Evento é seu *sentido*. E que para que haja sentido é necessário um sujeito designado que estabeleça este sentido. Por um lado, eventos em si mesmos são impessoais, já que eles ocorrem de fato, em um fato, mas, por outro lado, pelo seu sentido mesmo, eles são inseparáveis de serem apropriados ou designados. A impessoalidade de eventos pode, então, ser reconciliada com seu designar característico, que os separam dos fatos intramundanos.

O que está em jogo aqui é o reconhecimento de si mesmo pelo sujeito que possibilita a um fato intramundano se transformar em acontecimento ao ser apropriado por este sujeito que vivencia o acontecimento. Neste reconhecimento um fato é significado e convertido em um evento vivenciado e carregado de sentido. Neste apregoar sentido o sujeito estabelece um "mundo", uma concepção de realidade. Tal concepção se estabelece enquanto uma síntese *aperceptiva normativa*.

O carácter normativo das apercepções é o que permite reconhecer a objetividade dos conteúdos conceituais de um jogo de linguagem. De outro modo, as regras de um jogo linguístico seriam estabelecidas em si mesmas sem nenhum tipo de referência outra e uma tal ausência de objetividade conceitual exclui a possibilidade de se errar ao seguir uma regra linguística. Toda comunicação então seria perfeita, pois *sempre* estaria de acordo com as regras do jogo linguístico em questão, o que é absurdo.

iii. Mundo, fenomenologicamente, significa que quando fatos ocorrem, um sujeito que se perceba e se reconheça em um contexto determinado é capaz de interpretar este fato, apropriando-se dele e estabelecendo um acontecimento. Assim, um mundo constitui-se principalmente de eventos aos quais uma pessoa atribui *razões* e confere-lhes *sentido*, colocando-os em primeiro plano. Enquanto que os meros fatos são relegados a um plano de fundo por uma indiferença que lhes furta o sentido.

"Mundo" refere-se à totalidade de possibilidades interpretativas articuladas entre si, *das quais* tudo que acontece pode aparecer como dotada de sentido. Nós encontramos dentre essas possibilidades não apenas as possibilidades anteriores pelas quais tudo que ocorre acontece (causas), mas também aquelas possibilidades que dependem somente das projeções do *sujeito* e *em razão das quais* certos eventos ocorrem: ações. Estas possibilidades *em vista das quais* um sujeito age são "fins". Fins só podem ser estabelecidos se se oferece *razões* para fundamentar o *interesse* da ação. "Estados intencionais e ações possuem conteúdos em virtude dos quais eles são essencialmente sujeitos à avaliação da 'força do melhor argumento'"[50] (BRANDOM, 1994. p.17). Este é um caráter *normativo* dos conteúdos conceituais possíveis de articulação linguística.

Neste ponto o que interessa na produção do conceito de verdade é refutar a noção de que haja tal coisa como "fatos puros", ou "fatos científicos", que possam servir, sem mais, como razões de ações de uma pessoa. "Em uma análise mais atenta nós até mesmo percebemos que a ciência não conhece 'fatos puros' de modo algum e que os 'fatos' que entram em nosso conhecimento já são vistos de uma certa maneira e são, portanto, essencialmente ideacionais"[51] (FEYERABEND, 1993. p.11). Afinal, "quando qualquer *fato* é citado como uma razão (seja como a justificação de um compromisso cognitivo ou prático), uma história precisa ser contada sobre como este fato supostamente será entendido como uma *premissa* em alguma inferência"[52] (BRANDOM, 2009. p.4).

Desta maneira, o projeto de vida de um sujeito estabelece um mundo ao emoldurar o horizonte interpretativo deste sujeito. Neste projetar distinguem-se os fatos dos acontecimentos. Nele o sujeito, ao estabelecer seus fins almejados, atribui sentido àquilo que compreende como parte de seu projeto de vida. Só há *sentido* em uma interpretação. Interpretar e relacionar conceitos são comportamentos de um agente *sapiente*. Disso decorre que aqueles fatos que um sujeito não consegue relacionar à sua própria realidade como capazes de influenciar em seu projeto de vida são negligenciados e acabam sendo tomados como irreais. *Direitos, portanto, precisam se apresentar como Eventos a todos os membros de uma sociedade*. Não apenas como fatos legislados, mas como Eventos sociais consistindo no uso destes direitos.

iv. O que demarca a apropriação de um Evento por um sujeito qualquer é seu *interesse*. Propriamente entendido, interesse significa "ser em meio a", *inter-esse*. A condição de "em meio a" contrasta-se

[49] Sujeito aqui não deve se limitar à pessoa humana, e especialmente não deve ser identificado com um Eu Transcendental, nem em sentido kantiano nem em sentido husserliano. Antes, por sujeito me refiro à possibilidade de atribuição da posição de agente a qualquer coisa como, por exemplo, no Evento de uma montanha que derrota um alpinista.

[50] Intentional states and acts have contents in virtue of which they are essentially liable to evaluation of the "force of better reason".

[51] On closer analysis we even find that sciences know no 'bare facts' at all but that the 'facts' that enter our knowledge are already viewed in a certain way and are, therefore, essentially ideational.

[52] When any *fact* is cited as a reason (whether as the justification of a cognitive or a practical commitment), a story would need to be told about how that fact is supposed to be understood to show up as a *premise* in some inference.

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> radicalmente com a noção humanista antropocêntrica de que o humano estaria "no centro do mundo". Quando as teorias filosóficas centradas no sujeito interpretam a realidade como uma projeção realizada pelo humano, o "local" do conteúdo proposicional de um conceito é designado na consciência de um sujeito. Mas
>
> nem linguagem nem pensamento podem ser completamente explicadas um nos termos do outro, e nenhum deles tem prioridade conceitual. Os dois são, aliás, ligados no sentido de que cada um requer o outro para ser compreendido, mas o vínculo não é tão completo ao ponto de que algum deles seja suficiente, ainda que reforçado razoavelmente, para explicar o outro[53] (DAVIDSON, 2001 p.156).

Assim, tratar a realidade como projeções do sujeito é um equívoco, que já aparece "no homem medida de todas as coisas" de Protágoras e ainda perturba a humanidade. "Se se absolutiza a autonomia, deve-se relativizar a transcendência; mas se a transcendência não puder ser relativizada, autonomia em si mesma deve ser relativizada"[54] (DESMOND, 2000 p.43-44). A inconsistência do argumento protagórico foi explicitada por Platão[55] e também pelo segundo Wittgenstein, quando este último ressalta que não pode haver um jogo de linguajem jogado sozinho e com regras modificadas a cada vez. Pois "a ação pratica que é valorar não pode ser simplesmente a mesma ação que é valorada. […] tratar uma ação como correta não pode ser identificada com a própria produção da ação"[56] (BRANDOM, 1994 p.33).

Logo, o Evento é interpretado a partir do interesse do sujeito, mas em si mesmo não é determinado por este interesse. Antes, é a objetividade do acontecimento que delimita as possibilidades de apropriação. A valoração que confere sentido ao Evento – e consequentemente nos confere acesso à realidade – não pode recorrer somente às projeções subjetivas. "Se o Ser em si mesmo não possui valor, não podemos dar-lhe valor algum, pois nosso ser mesmo, e tudo que fazemos, incluindo o valorar do Ser, em última instância não tem valor. O valorar humano do Ser é ulteriormente sem valor"[57] (DESMOND. 1995b. p.223). Isso significa que Eventos são apropriados a partir de uma perspectiva interessada, mas também que essa perspectiva deve se confrontar com uma valoração objetiva.

Em seu étimo, "objeto" e seus cognatos significam "o que é posto em frente", indicando sempre uma *relação* com aquilo que se está objetivamente em frente a. O termo se refere ao que se opõe a algo, contrastando para destacar ou refutar. Assim, um valor objetivo é algo que, originário do Evento, se oferece como contraponto para a projeção subjetiva daquele que se apropria do Evento. O horizonte hermenêutico é objetivo. Assim, é a *apropriação* do Evento feita pelo *autor* que fundamenta o uso dos direitos. As fontes do Direito se apresentam como critérios objetivos para seu uso justo, livre e solidário.

A implicação jurídica mais marcante disso é que o Direito, definitivamente, não pode ser determinado pelo café-da-manhã do juiz, nem se determinar como válido igualmente para todos os casos. Quando um fenômeno jurídico se apresenta, as razões projetadas pelo vicário estatal devem se confrontar com os valores objetivos do Evento em questão. Sem justificação objetiva, uma ação jurídica é apenas um ato de violência sem razão. Pois "o ser humano é um niilismo vivo mascarado como ético, se não houver ontologia do bem, se o bem não estiver fundado no próprio Ser, ou se Ser não for primariamente bom"[58] (DESMOND, 1995a. p.509).

II. Considerações Finais

Uma Justiça democrática não pode ser alcançada em uma democracia entendida como de "governo da maioria". Isto principalmente porque tradicionalmente o "governo da maioria" se fundamenta em uma matriz que busca a cooperação e o benefício mútuos dos componentes de uma vontade geral como justificação da ação política. A Constituição é usurpada como ferramenta para o "bem comum" que é definido monocraticamente pelo poder soberano.

O uso democrático de direitos é algo somente alcançável quando um indivíduo possa confiar que o Direito, não a guerra, pode corrigir uma situação socialmente injusta na qual se encontre. E quando os vicários estatais limitam a interpretação da lei à universalidade da vontade geral ou à razão de Estado, então a totalidade da realidade é reduzida às pretensões de controle e segurança destes vicários.

Pois direitos não são algo que se possua, mas algo que se usa. Porque se tratados como posse ou propriedade, direitos são reduzidos a predicados do

[53] Neither language nor thinking can be fully explained in terms of the other, and neither has conceptual priority. The two are, indeed, linked in the sense that each requires the other in order to be understood, but the linkage is not so complete that either suffices, even when reasonably reinforced, to explicate the other.

[54] If autonomy is absolute, transcendence must be relativized; but if transcendence can not be relativized, autonomy itself must be relativized.

[55] A refutação da tese protagórica sobre o conhecimento no Teeteto e a resposta alcançada com a demonstração da realidade do não-ser, e logo a possibilidade do discurso falso, *no Sofista*

[56] The practical performance that are assessing cannot be just the same performances that are assessed. […] treating a performance as correct cannot be identified with producing it

[57] If being itself has no value, we can give it no value, for our own being itself, and everything we do, including the giving of value to being, ultimately has no value. The human giving of value to being is finally without value.

[58] The human being is a living niilism mascarade as ethical, if there is no ontology of the good, if the good is not grounded in the Being itself, or if Being isn't primaly good.

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cidadão e passíveis de serem negados a qualquer pessoa que seja tida como não digna destes direitos pelo vicário estatal. Todavia, entendidos como elemento de uso, direitos se instituem como o meio de atuação do sujeito na vida democrática, ao invés de apenas um resultado almejado que não se concretiza na vida social. O intitulamento de usar os direitos valida a autoridade da pessoa, ressaltando o caráter de *servidor* público do vicário estatal.

O uso de direitos, enquanto base de um Estado *democrático,* demanda que o Direito seja fundamentado em Justiça e Liberdade, ao invés de Lei e Ordem. Liberdade é um termo plurívoco com uma multitude de teorias que buscam conceituá-la. Entretanto, não há embaraço em acomodar várias características distintas dentro da ideia de liberdade democrática, focando respectivamente em capacidade, falta de dependência e falta de interferência como elementos constitutivos do uso de direitos. Afinal, a variedade de concepções sobre o bem é uma marca da liberdade humana, não de erro.

Portanto, estar livre de necessidades pode antagonizar ser livre para buscar projetos políticos, como o exemplo das greves de fome para fins políticos de Gandhi nos mostra. Afinal, um indivíduo tem pouco uso para uma noção de bem-estar que se abstém de considerações éticas. Isto porque algo essencial para nós, nomeadamente ser livre, nos dá licença para evitar o que é essencial. Sem sapiência não haveria como determinarmos o bem a ser buscado e se não se sabe para onde se vai, nenhum caminho pode levar ao destino, pelo que a liberdade se constituiria em forma vazia e sem sentido. Pois a inteligência prática é a mente a serviço de nosso desejo que o *ser seja outro*, que nós mesmos sejamos outros. E a possibilidade de sermos sempre melhores do que nós somos - logo sermos outros que somos agora - é o caráter constitutivo da liberdade. Entretanto, sem a Justiça a possibilidade de sermos piores apresenta-se com a mesma potência. Potência traduz o grego *dynamis*, o que significa que a força de lei que confere potência ao Direito constitui o *dinamismo* social que o uso de direitos deve promover enquanto Justiça, aquela virtude que sempre produz o bem de outrem.

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Corruption and Governance: A Bad Ginger for Development in Nigeria

By Caseley Olabode Stephens

Abstract- Public service is a service where federal, state, or local government has an interest or where its presence is felt. It is a very wide organ, encompassing the civil service, the school system, the judicially, the local government system, the security agents, government companies and public service is of great importance to any given state. The role of the public service in achieving good governance cannot be underestimated. The purpose of the state is to maximize the potentials of its citizens by providing basic rights, liberty, security, and welfare, which can be gathered from the central role in the formulation and implementation of policies designed for the development of the society. Development is critical and essential to the sustenance and growth of any nation. A country is classified as developed when can provide qualitative life for her citizenry. Nigeria in the last fifty years has been battling with the problems of development despite huge human, material, and natural resources in her possession. In Nigeria, the roles of government has come under severe critiques within the framework of the gap that exists between the anticipated roles and the actual output in guiding the society along the course of development as a result of corruption.

Keywords: *corruption, good governance, service delivery, sustainable development, accountability, nigeria.*

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Corruption and Governance: A Bad Ginger for Development in Nigeria

Caseley Olabode Stephens

Abstract- Public service is a service where federal, state, or local government has an interest or where its presence is felt. It is a very wide organ, encompassing the civil service, the school system, the judicially, the local government system, the security agents, government companies and public service is of great importance to any given state. The role of the public service in achieving good governance cannot be underestimated. The purpose of the state is to maximize the potentials of its citizens by providing basic rights, liberty, security, and welfare, which can be gathered from the central role in the formulation and implementation of policies designed for the development of the society. Development is critical and essential to the sustenance and growth of any nation. A country is classified as developed when can provide qualitative life for her citizenry. Nigeria in the last fifty years has been battling with the problems of development despite huge human, material, and natural resources in her possession. In Nigeria, the roles of government has come under severe critiques within the framework of the gap that exists between the anticipated roles and the actual output in guiding the society along the course of development as a result of corruption. The paper discusses the problems affecting national development as well as strategies for achieving sustainable development in Nigeria. It also observes the fact that Nigeria is still struggling with the problems of bad governance as a result of the high level of non-accountability and the presence of visible corruption that cannot be untameable legally as a result of the system in place. The article also reveals that many of the anti-corruption efforts are part of the liberal reforms that assume that corruption is an individual act or personal misuse of public office for private gain. It points out that as laudable as the intentions of government in putting in place institutions and laws meant to curb corruption, the enforcement of these laws has left much to be desired. In fact, the various reform efforts of the Nigerian government are of limited value because they fail to consider much of the dynamics that support corruption in the country. Thus, people now regard the law as paper tigers, meant only to the enforced when breached by low-level public officers. While successive administrations have taken partially successful steps to control corruption, these efforts have not fundamentally undermined the supporting environment for corruption in the country. The article adopts secondary data as sources of information. The paper concluded that faithful implementation of development plan, commitment on the part of the leaders and absence of corruption are required for the achievement of sustainable development in Nigeria. The article therefore recommends the need for greater transparency in the management of public funds by the public officers, and the need for political will and commitment from governments at Federal, State and Local, including government institutions at various levels of governance in the country; with the need to consciously transform social values and state institutions that works as enabling environments for corruption. The leadership also has huge responsibility in controlling corruption and restoring the hope to the citizenry through good governance. Unless good governance is in place with accountability carefully observed, sustainable development cannot be realized.

Keywords: *corruption, good governance, service delivery, sustainable development, accountability, nigeria.*

I. Introduction

In every society and community, there are certain behaviours, which are very much detested during interpersonal relationships, and group behaviour. The behaviours include cheating, lying, etc. These behaviours which have moral, ethical, legal and religious implications are detested because they are inimical to proper and decent standards. The pattern of that encapsulates all this detested attitude is corruption (Omoluabi, 2007:3).

One of the major challenges facing Nigeria and other developing areas of the world is how to create a context of stable political and socio-economic environment for policies and programmes to be implemented. The issue of getting the right leadership to fight corruption and propel good governance has been a recurring decimal in Nigeria and Africa in general. Once this enabling environment is created, it becomes easy for the people to confront and resolve challenges facing them by using resources within their environment to create a condition of life where each stage is progressively better than the preceding one. However, this is not the case in Nigeria due to corruption and bad governance. Good governance encapsulates transparency, accountability, freedom of choice and liberty for the people to pursue their individual and corporate interest. Indeed, at the core of Africa's underdeveloped status are corruption and leadership deficit.

Corruption as a household name in every society and its negative impact on the socio-economic and political setting of a country can never be over emphasized. There has been a global cry and harmonized efforts to tackle corruption through the creation and implementation of laws and policies across nations. Some nations have been successful in their quest to reduce the level of corruption while others still

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fall behind. In this case, Nigeria seems to be an example of a state that has failed in combating corruption. The challenges of corruption remain a major devastating issue facing Nigeria since the colonial period, although, this phenomenon has become a cankerworm that has eaten deep into the fabrics of our system (Muhammed, 2013:120). From the common man in the street to the highest political figure, corruption is recurrent in almost every transaction in the Nigerian society or system.

Over the years, public sector in Nigeria has been characterized largely by ineffectiveness and inefficiency. The situation is not different in other African countries. High-level corruption has been identified as being responsible for Nigeria's underdevelopment and growing crimes rates. It is instructive to note that the Nigerian government and citizens have not totally committed themselves to introducing and implementing measures that can prevent or drastically reduce the extent and consequence of corruption in the country. That is not to say that laws, institutions, and programmes for controlling corruption have not been introduced by successive governments. On the contrary, every Nigerian government since 1975 introduced elaborate laws, programmes, and policies, only for officials to turn such into fertile opportunity for corrupt practices and enrichment. Consequently, there has been a geometrical growth in the rate of corruption in the country (Etannibi, 2002).

Etannibi (2002), also claimed that corruption is the source of many socioeconomic and political problems that have militated against the attainment of economic development, equity, social justice, political integration, and stability as well as democracy in Nigeria.

Political corruption is a persistent phenomenon in Nigeria. The employment, promotions, postings, and deployment processes, especially in the federal service are riddled with corruption, and it was estimated in 2012 that, Nigeria had lost over $400 billion to corruption since independence. In 2018, the country ranked 144th in the 180 countries listed in Transparency International's Corruption Index. Yet corruption in Nigeria has continued ever since with greater ferocity and intensity. Since the return of the country to civil rule on May 29, 1999, the Nigerian government has taken several measures to address the problems of corruption and bad governance in the country. Despite the successes attained by these measures, the situation remains unacceptable as corruption continues to permeate and pervade every facet of national life in Nigeria.

In this research article, the data for the study were basically selected from secondary materials such as textbooks, internet materials, newspapers, magazines, and journals articles, etc, through a systematic qualitative content analysis.

In discussing issues in this study, the article is divided into nineteen sections. The first section dealt with the introduction, the second focused on the conceptual analysis where corruption, governance and good governance were conceptualized while the third aspect treated the conceptual clarifications, followed by the national development plan in Nigeria, the problem of national development in Nigeria, strategies for national development in Nigeria, and the seventh section deals with the strategies for the national development in Asia. The eighth aspect treated the theoretical exploration of corruption, and in the nineth part, the interface between leadership, corruption, governance, and the theory of two public was treated. In the section tenth, theory of resource course was treated, followed by the historical perspective of corruption in Nigeria, forms of corruption in Nigeria public sector, the effective nature and causes of corruption in Nigeria, examining corruption and governance in Nigeria in retrospect, the major challenges of corruption and governance in Nigeria, and the way forward on corruption and good governance in Nigeria. Anti-corruption initiatives in Africa: The National and Regional experiences focus on section seventh. The eighteen section takes a cursory look at the analysis of trends and policy implementations: African context, while the last section presented the concluding remarks.

II. Corruption and Governance: Conceptual Analysis

Corruption is both an ancient and a global phenomenon that created the social phenomenon that is difficult to define and has refused a universally accepted definition. Its practice is referenced by and dates back to the ancient Christian and Islamic evolutionary historical books and days, respectively. These ancient historical documentations argues that in the "garden of Eden", corruption overturned and crippled the first social institution that God constituted on the planet earth – the Garden of Eden, (Holy Bible, Genesis Chapter 2-3, Quran Chapter7:22, (Osvaldo H. Schenone and Samuel Greeg, 2003). In the same vein, corruption across the globe today continues to cripple the development across the globe - socio economic and political institutions across the globe. It is a menace that has no respect for developing, developed and industrialized societies. Corruption is well known across the world as a danger to socio economic and political transformation but, it has been difficult to reach a global consensus on its definition and permanent cure till date, for many reasons. Corruption is a multifaceted phenomenon that has multiple causes and effects. Scholars, policy makers and opinion leaders tend to be confused in the process of analysis due to complexity of the phenomenon as it takes on various forms.

Before we attempt to review any stated definition, corruption has been identified as one of the major clogs in the wheel of development in Africa. It gained prominence in development lexicon in the late

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1980s and early 1990s alongside other development concepts, like *good governance, transparency, accountability, and popular participation* to mention but a few. The World bank and other international Financial Institutions, like the International Monetary Fund (IMF) concluded that the structural Adjustment Programme (SAP) failed in Africa due to bad governance, including corrupt practices. Prior to just mentioned period, different institutions and social settings called corruption different names. The International Financial Institutions (IFIs), like the World Bank (WB) does not call it corruption in the past but *"project leakage and/or project pilferage"*. The World Bank (WB) concepts were coined as a result of its experiences of corrupt practices in some of its supported development projects across the globe. This amongst others, underscores why development banks like the African Development Bank (AfDB) and others with similar institutional objectives continue to prioritize anti-corruption fight in their project's development. The definition of corruption varies depending on the inclination of the scholar and perception of the concept, nevertheless, all rationale adults know what constitute corrupt practices (Inspector General of the Government of Uganda, 1989).

The challenge of consensus building on the word corruption also brought along with it the problem of having a universal acceptable definition for the concept. Unfortunately, up ill date, there is no global acceptable definition for the menace. Different definers describe and defines it from their experiences and perspectives. Some development practitioners and researchers have also contended that the best way to define corruption is to look at it from its various manifestations. This school of thought argues that corruption could manifest in the form of bribery greed, stealing, extortion, embezzlement, fraud, and nepotism. Odukanmi (2013), argued that corruption can be likened to a dreadful Acquired Immune Deficiency Syndromes (AIDS) virus that is difficult to heal but can be successfully prevented, if necessary, prevention and steps are taken. Despite the arguments on the definitions, practices and solution of corruption, it is also important to mention that, some of the definitions have gained prominence in governance and development literature globally, like that of the Transparency International's definition of "abuse of entrusted authority for private gain"; The United Nations Global Programme Against Corruption (GPAC), defines corruption as the "abuse of power for private gain"; The World Bank (World Bank Independent Evaluation Group, 2006) defines corruption as *"the abuse of office for private gains."* Public office is abused for private gain when an official accepts, solicits, or extorts a bribe. Agbu (2003), observes that public office can be abused for selfish gain even if bribery does not take place. This implies that political corruption could be defined in the form of patronage, election rigging, and voters register manipulation, favouritism in the award of contract, procurement scam, tribalism and nepotism in recruitment and promotion, unfair punishment, and sanctions for public officials. Given the stated definitions, it can be deduced that, corruption or political corruption denotes any action that violates electoral rules or the formal duties of public roles, rules, or norms regarding public trust.

These explanations and definitions bring to light the extent to which corrupt practices are indulged and perpetrated. Corruption viewed from different perspectives by scholars, share some common concern. There is a general agreement among scholars that corruption is the abuse of entrusted power for private gain. It hurts everyone whose life, livelihood or happiness depends on the integrity of people in a position of authority. Fatile and Adejuwon (2012), it is a serious societal problem about which something must be done to reduce its occurrence and prevalence.

On the other hand, the term 'governance' cannot be pinned down to a universally acceptable definition. This is because it has fallen into semantic predicament to the extent that the literature on it replete with so many definitions of the term by various scholars with different variant and subtype. However, we shall comb the conceptual terrains of the term with a view to finding the middle ground for its heuristic investigation. According to the United Nations Development Programme (UNDP, 2011) governance is defined as "the exercise of economic, political and administrative authorities to manage a country's affairs at all levels". Similarly, the World Governance Survey Report conceptualized governance as "the formulation and stewardship of the formal and informal rules that regulates the public realm, the arena in which state as well as economic and social actors interacts to make decisions (in Hyden & Court, 2002).

Governance has also been defined as the use of political authority and exercise of control over society and the management of its resources for social and economic development. It encompasses the nature of functioning of a state's institutional and structural arrangements, decision making processes, policy formulation, implementation capacity, information flows, effectiveness of leadership and the nature of the relationship between rulers and the ruled (Doig, 1995). Governance can also be described as the use of authority and the exercise of control over society and the management of its resources for social and economic development. It is the way power is exercised by governments in the distribution of a country's social and economic resources. The nature and manner of distribution is what makes governance good or bad one. Thus, according to Ogundiya (2010), when resources must be distributed to promote inequality or to achieve personal or group ambitions, the essence of governance which coincides with the essence of politics

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and essence of the state is defeated. Therefore, resources must be distributed responsibly, equitably, and fairly for the realization of the essence of the state.

As noted by Okeke (2010), governance is said to have evolved from the need to organize society towards the achievement of a common goal. An opinion worth considering is that society derives its roots from the solitary man who later got transformed into a family person to fulfil the need for socialization. Within this union, he enjoyed the love, care and company of family members and recognised their inherent and inalienable rights to preserve the love, harmony, and cohesion within the family. Society later grew out of the family in response to the need to fulfil other higher needs and the collective aspirations of the people, such as security, economic well-being and survival, through negotiations and the formation of social contract between the governors and the governed. Governance, therefore, concerns not just the integrity, efficiency, and economy of government but also its effectiveness in terms of the ends to which government organization and activity are directed.

Recently the terms "governance" and "good governance" are being increasingly used in development literature. Bad governance is being increasingly regarded as one of the root causes of all evil within our societies. Major donors and international financial institutions are increasingly basing their aid and loans on the condition that reforms and ensures "good governance" are undertaken. Good governance has some characteristics which include: It is participatory, consensus oriented, accountable, transparent, responsive, effective, and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are considered and that the voices of the most vulnerable in society are heard in decision-making (Akhakpe, 2014). It is also responsive to the present and future needs of society (Downer, 2000).

Good governance has also been seen as government that fulfils the terms of the social contract with the people. It is also seen as a fundamental right in a democracy, and it implies transparency and accountability. Good governance entails an administration that is sensitive and responsive to the needs of the people and is effective in coping with emerging challenges in society by framing and implementing appropriate laws and measures. It includes strict rules of accountability. Good governance largely depends on the extent to which the general citizenry perceives a government to be legitimate, i.e., committed to improving the public welfare – deliver public services and equitable in its conduct – favouring no special interests or groups. It is among other things, participatory, transparent, and accountable. It is also effective, equitable and promotes the rule of law. Good governance ensures that political, social, and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources (Richardson, 2008).

Good governance however remains elusive with no limitation of scope that commands universal acceptance. The true test of good governance is the degree to which it delivers on the promise of human, civil, cultural, economic, political, and social rights. It ensures that corruption is minimized, the views of minorities are considered and that the voices of the most vulnerable in society are heard in decision making. It is also responsive to the present and future needs of society and the nation at large. Governance is good when it is able to achieve the desired end of the state defined in terms of justice, equity, protection of life and property, enhanced citizens' participation, preservation of rule of law and improved living standard of the populace (Ogundiya, 2010). There is no doubt that in Nigeria since the return to democratic rule in 1999, good governance has been elusive which many scholars believe is largely attributable to large scale level of corruption in different facets of the society and most especially the public sector.

Politically, good governance entails the establishment of a representative and accountable form of government; good governance requires a strong and pluralistic civil society, where there is freedom of expression and association; good governance requires good institutions – sets of rules governing the actions of individuals and organizations and the negotiation of differences between them; good governance requires the primacy of the rule of law, maintained through an impartial and effective legal system; and good governance requires a high degree of transparency and accountability in public and corporate processes.

Economically, good governance requires policies to promote broad-based economic growth, a dynamic private sector and social policies that will lead to poverty reduction. Economic growth is best achieved in an efficient, open, market-based economy. Investment in people is a high priority, through policies and institutions that improve access to quality education, health and other services that underpin a country's human resource base. Effective institutions and good corporate governance are needed to support the development of a competitive private sector. For markets to function, social norms are needed that respect contract and property rights.

Yet, careful management of the national economy is vital in order to maximize economic and social advancement. Governance comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences. Good governance means competent management of a country's resources and affairs in a

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manner that is open, transparent, accountable, equitable and responsive to people's needs. All these factors in the view of Akhakpe (2014) combined determine the level of development in a given society.

This brings us to the vexed issues of development. The term development has endured conceptual and methodological shift over the years. In the 70s, development was associated with issues of growth in the economy, rise in per capita income and increase in Gross Domestic Product (GDP). However, Todaro (1982) provides a parameter for interrogating the issues of development. For him, objectives of development should include ability to meet basic needs such as food, shelter, health and protection, achievement of self-esteem and human freedom. Todaro went further to argue that society deserves human freedom in form of emancipation from alienating material conditions of life and freedom from the social servitude of man and ignorance of nature, misery, institutional and dogmatic beliefs.

Corroborating the above view, Eberlee (2001) argued that in contemporary times, the concept of development has moved away from the fetishism of growth and development to the ability of a people to recover their resources and use same according to its cultural values to solve their individual and collective problems to bring about new frame of life where each stage is an improvement on the preceding one. What is at stake in Africa is the lack of development of man's wellbeing and welfare due to bad governance which has given rise to monumental corruption.

III. Development: Conceptual Clarifications

Development as a concept is a victim of definitional pluralism. It is a difficult word to define. However, attempts have been made by erudite scholars to conceptualize development. Some of these definitions will be explored for the purpose of this study. Gboyega (2003), captures development as an idea that embodies all attempts to improve the conditions of human existence in all ramifications. It implies improvement in material well-being of all citizens, not the most powerful and rich alone, in a sustainable way such that today's consumption does not imperil the future, it also demands that poverty and inequality of access to the good things of life be removed or drastically reduced. It seeks to improve personal physical security and livelihoods and expansion of life chances. Naomi (1995) believes that development is usually taken to involve not only economic growth, but also some notion of equitable distribution, provision of health care, education, housing and other essential services all with a view to improving the individual and collective quality of life (Naomi, 1995). Chrisman (1984) views development as a process of societal advancement, where improvement in the well-being of people are generated through strong partnerships between all sectors, corporate bodies, and other groups in the society. It is reasonable to know that development is not only an economic exercise, but also involves both socio-economic and political issues and pervades all aspects of societal life.

a) National Development Plans in Nigeria

National, according to Longman dictionary of contemporary English, refers to a phenomenon that embraces a whole nation. National development therefore can be described as the overall development or a collective socio-economic, political as well as religious advancement of a country or nation. This is best achieved through development planning, which can be described as the country's collection of strategies mapped out by the government. National development plans in Nigeria We have had series of development plans in Nigeria.

Nigeria is permanently hunted by the spectre of development. The myth of growth and development is so entrenched that the country's history passes for the history of development strategies and growth models from colonial times up to date. No term has been in constant flux as development, and this seems that, Nigeria is the only country where virtually all notions and models of development have been experimented (Aremu, 2003).

Two years after independence, the first National Development Plan policy was formulated between 1962 and 1968 with the objectives of development opportunities in health, education and employment and improving access to these opportunities, etc. This plan failed because fifty percent of resources needed to finance the plan was to come from external sources, and only fourteen percent of the external finance was received (Ogwumike, 1995).

Collapse of the first Republic and the commencement of civil war also disrupted the plan. After the civil war in 1970, the second national development plan 1970 to 1974 was launched, the plan priorities were in agriculture, industry, transport, manpower, defence, electricity, communication and water supply and provision of social services (Ogwumike, 1995). The third plan, covering the period of 1975 to 1980 was considered more ambitious than the second plan. Emphasis was placed on rural development and efforts to revamp agricultural sector. The fourth plan 1981 to 1985 recognized the role of social services, health services, etc. The plan was aimed at bringing about improvement in the living conditions of the people. The specific objectives were: an increase in the real income of the average citizen, more even distribution of income among individuals and socio-economic groups, increased dependence on the country's material and human resources, a reduction in

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the level of unemployment and underemployment (Ogwumike, 1995).

During these periods, Nigeria's enormous oil wealth was not invested to build a viable industrial base for the country and for launching an agrarian revolution to liquidate mass poverty. For instance, the Green Revolution Programme that replaced Operation Feed the Nation failed to generate enough food for the masses. In the recent past, various strategies for development have also been tried with little or no result; among these were the Structural Adjustment Programmes (SAP), Vision 2010, National Economic Empowerment and Development Strategy (NEEDS), Creation of Development Centres, etc. Currently, there are seven-point agenda of the present administration with vision 2020, and without any clear methodological approach towards achieving them. It is obvious that the current results so far are not what development connotes.

b) The Problems of National Development in Nigeria

Despite series of development strategies, put in place by successive governments, and sometimes with good intentions, all attempts to generate meaningful development proved futile. Based on this, one is now confronted with these puzzles: "Were those previous development plans or strategies bad in their context, or wrongly projected?" If nothing was wrong with the plans, then why is it still difficult to generate meaningful development despite the huge resources at our disposal? The solutions to these puzzles are not far-fetched. A lot of factors have combined to fetter nation's development.

One, there are in most cases, no executive capacity responsible for the formulation and implementation of the plan. What we usually see are officials entrusted to such a position but without any meaningful executive authority. Some of the previous development plans failed because; there was little or no consultation of the public. Planning is supposed to involve even the peasants in the villages. Even, the Local Government officials who are close to the people were not consulted. Planning is not an edifice where technocrats alone operate (Mimiko, 1998).

Lack of good governance also militates against national development. Where there is no good governance, development becomes a mirage. This is as a result of bad leadership in the country. Most of our leaders have no sense of commitment to development. Mimiko (1998) captures the situation this way: "*The decolonization allowed the crop of leaders that aligned with colonial power to take over Nigeria. This ensured the sustenance of a neo-colonial economy even after political independence. These leaders on assumption of power quickly turned up the repressive machinery of the colonial state rather than dismantling it. Significantly, they have no vision of development to accompany the efficient instrument of repression they inherited. All they were interested in was access to power and privileges and not development".*

High level of corruption and indiscipline is another barrier to development. Nigeria state is corrupt, managed by corrupt leaders who have made the state an instrument of capital accumulation, rather than using it to project the interest of the citizenry. An incredibly good plan supervised by a thoroughly corrupt state can hardly do a thorough good job (Mimiko, 1998). Corruption and development are antithetical to each other, the two cannot cohabit, and so, where one is present, the other suffers.

Another important factor is the mono-economic base of the country. The country largely depends on crude oil for her survival to the detriment of other resources. All other sectors of the economy are neglected. For instance, agriculture, which constitutes the mainstay of the Nigerian economy in the 1950s and 1960s, has been thrown into limbo over the years. How would government encourage export promotion when there is virtually nothing to export? The economy is not diversified, and this is not suitable for a sustainable development (Mimiko, 1998).

c) Strategies for National Development

The beauty of any development plan is the faithful implementation of such plan, which its success lies with the implementers. In our previous discussion, it was mentioned that most of the past development plans failed as a result of implementation problem and lack of committed leadership etc.

Based on this fact, new development policies and strategies are currently in place as alternative strategies for development, such as Seven Points Agenda, Vision 2020, etc. These policies and vision appear to be all embracing but they are not sacrosanct in their totality. But if faithfully implemented, the nation at least will move towards path of development. It is in our opinion that to successfully implement the Seven Point Agenda of the present regime, there some lessons we can learn from Asian models of development.

First, development requires total commitment on the parts of the leadership. The need for discipline and honesty on the part of the project implementers cannot be compromised; such officials should show enough discipline, interest, willingness, dedication, and honesty. Without these attributes and the will to pursue set economic goals, all other ingredients of development present would amount to nullity.

Second, this country should learn that wholesale liberalization; the type advocated by the apologists of orthodox SAP is not necessarily synonymous with development. It goes without saying therefore that a level of state involvement (heterodoxy) is imperative even in the face of the crucial need for structural adjustment. But whatever the degree of state

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involvement, private ownership of properties must be guaranteed for investment to get stimulated (Mimiko, 1997). Although, it is another question whether Nigerian state as presently constituted can play this critical role given its embarrassing level of corruption, inefficiency, and incapacitation by commitment to sundry primordial values. Be it as it may, the goal should be to evolve a process of reformation of the state to make it able to play the type of highly constructive role that its counterparts are playing in the whole of East Asia (Mimiko, 1997).

Also, stability and continuity of policies encourage investment and propel development. For instance, in Korea, when park was assassinated, his policies remained and were building on. Nigeria leadership must learn to build on policies rather than to jettison them for new ones for the sake of party politics and personal 240 J. Public Adm. Policy Res. aggrandisement. There is the need for Nigeria to revamp the agricultural sector; this sector was instrumental in the development of Japan. Agriculture used to be the mainstay of Nigeria economy, but the discovery of crude oil succeeded in putting agriculture into state of oblivion.

Human resources development is also a sine qua non to Nigeria national development; this was demonstrated in Japan and Korea (Lawal et al., 1976). Development depends very much on human knowledge and skills. This must be such that a high quality of education and training is achieved for a large majority at a reasonable price and the context and quality of such education and training should be relevant and adequate to the country's development needs. Literature on development stresses the axiom that it is the people who develop and that unless there are large numbers of suitably qualified people, development cannot take place.

There is need for attitudinal change. Nigerians must as a matter of fact change their pessimistic attitude towards development. The idea or belief that "things cannot work in Nigeria or Nigerian factor" should be discouraged. Real development is achieved through internal activities rather than from external influences. Development is seen as a process generated within a society by forces propagated and invigorated by the actual members of that society. It is believed that true development can neither be started nor sustained by outsiders. Although, no country can develop in isolation, but heavy emphasis should not be placed on foreign resources for the country's development. The models of development of Japan and China show how these countries utilize their internal resources both human and material for rapid economic development. It is reasonable that Nigerians should inculcate a high sense of patriotism as demonstrated by the Japanese and Chinese.

Importantly, citizenship should be promoted over indigeneity in order to achieve cooperation and participation of all communities in the development process. Omotoso (2008) noted that the 1999 constitution is directly or indirectly promoting indigeneity in the country. For example, section 318(1) of paragraph (IV) supports indigeneity. The constitution sets parameters for indigenes and non-indigenes. It equally gives legal bases to various discriminatory policies that actively promote indigeneity, contrary to some sections that argue against discrimination. This is very contradictory. Leadership in Nigeria must behave in a way to inculcate the spirit of patriotism in the minds of the people, so that they will be ready to stand with the government in her development efforts. When Nigerians see themselves as one and not as belonging to one section of the country as portrayed presently, the urge to develop Nigeria will be germinated and sustained.

Additionally, the need to reform electoral process is imperative for socio-economic and political development. Electoral fraud is one of the banes of Nigeria's development. The role of leadership in development cannot be overemphasized, all efforts towards development must be coordinated and directed by the leaders, therefore, the leaders must be development conscious, have genuine interest for development and the political will to propel such development. The leaders must also have the cooperation of the people, because, it is the people that develop a nation. Honestly, the aforementioned ingredients cannot be possible without a legitimized mandate for the leaders by the people. When a leader assumes office illegitimately or through electoral fraud, such leader is bound to fail in his effort to generate meaningful development. This is due to the fact that such illegitimate leaders tend to display characters that repress development such as; selfishness, corruption, pride, thuggery and inefficiency and also, there is apathy and natural detachment to development plans by the people as they did not see such emerging leaders as the products of their consent through voting. Based on the foregoing, the electoral process should be reformed in such a way that nobody assumes power (political) through crook or fraudulent means. The process should be made opened, free, fair and competitive. All legal battles preceding the elections must be concluded before any swearing in. This, it is believed, will create genuine environment conducive for development. Lastly, development plan should not be exclusively regarded as economic issue it should be seen as holistic and encompassing national issue that cuts across economic, social, political, and psychological aspects of human endeavour.

d) Models of development in Asia

This model outlines the driving forces of development in some of the Asia countries as models

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for Nigeria's development. The enviable growth and development patterns of several Asian countries are well known. East Asia is the only region in the world that has been able to maintain strong, consistent growth patterns over several decades, led first by Japan and the newly industrializing economies of Hong Kong, South Korea, Singapore and Taiwan, etc (Mimiko, 1998; Adelman, 1995). Apart from the homogenous nature of these societies, other several factors were responsible for their development. These were development of agricultural sector, a system of mass education, development of indigenous industries, export-oriented strategy, the Spartan discipline of their leadership, existence of efficient bureaucracy, human resources development, encouragement of a dynamic private sector working in co-operation with the government towards a society-wide vision of development, institutional capacity building and attention to the problems of governance, consistency and policy stability, etc (Mimiko, 1998).

IV. Theoretical Exploration of Corruption

As corruption is a complex phenomenon, no one theory explains it all. This part of the article reviews the main theories used to explain why corruption occurs. The technical or effectiveness theory posited that an organization is technically efficient, if it is adequate for the demand made on it. What the technical theorists are saying is that efficiency of the public administrators should be measured by how well they have performed in meeting the objectives of the organization. That is, to provide and deliver essential services and goods to the public at an affordable price and at the right time.

Target (operational) theory is concerned with a situation where a number of different units are operating in a number of different environments. Public sector comprises of the department, ministries, and others like public corporations. It is through these organizations, which makes up the public sector that government carries it activities (Akpan, 1982). An organization might try to be efficient but its activities, its interdependency or inter-relationship with other departments might affect negatively or positively its efficiency.

Institutional theory - also known as institutionalism - uses country and government institutional characteristics, such as pre-existing rule of law, well-defined anti-corruption norms, and independent anti-corruption institutions with enforcement powers, to explain corruption in the public sector. Institutional theory "examines the processes and mechanisms by which structures, schemas, rules, and routines become established as authoritative guidelines for social behaviour" (Scott, 2004). In relation to understanding corruption, institutional theory brings in the social context and provides a taxonomy for understanding how corruption might become entrenched in organizations, in institutions and in society, despite the existence of an anti-corruption framework (Luo, 2005). Institutional theory considers that corruption is influenced by the character, design and transparency of the political system and its institutions. At the same time, it acknowledges that the relationship between corruption, institutions, political systems, culture, and gender is complex (Debski and others, 2018; Stensöta, Wängnerud and Svensson, 2015).

Another theory that explains the prevalence of public sector corruption is the game theory. This theory borrows from economic literature and seeks to provide rationales for corrupt decisions by public officials. In particular, Macrae (1982) suggests that corruption is part of a rational calculus and an integral and often deeply rooted method by which people take decisions. In this context, individuals face a " prisoner's dilemma", which "illustrates a conflict between individual and group rationality" (Kuhn, 2019). The individual fears a disadvantage if she refuses to engage in corrupt practices while other individuals do not refuse to do so in the same situation. As a result, all individuals obtain some sort of benefit which, however, is always less than the benefit that each of them would have obtained if they refused to engage in corrupt practices. This is illustrated, for example, in the area of public procurement, where participants in corruption include private sector actors that are unsure of the actions of others. The fear of being outdone by competitors acting illegally or unethically thus motivates otherwise ethical companies to engage in procurement corruption.

Another theory that is relevant to this discourse is the modernization theory. The modernisation school of thought was the first attempt to articulate the problem of development in terms of the need to transform the backward "traditional" nature of Third World economies into "modern" economies. Drawing from the historical experience of the Western Europe after World War II, under the Marshal Plan, it advocated the need for accelerated economic growth through an import substitution form of industrialisation, a process seen to entail securing the right quantity and mix of saving investment and foreign aid. Given the relatively low levels of new capital formation in most Third World countries, one obvious policy implication was the need for massive capital investment through foreign aid.

Modernization theorists were concerned with structural change in the economy and the process that had an economy from a state of primitive organization of production to the modem organization of economic activities (Huntington, 1968). Emphasis on the transformation of a traditional society into a modern one suggests that the outcry against corruption amount to a puritan reaction to modernization. In this view, corruption represents a deviation from ethical norms. Thus, looking at corruption from the modernization perspective reflect

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a strong anti-state position which Huntington cited by Abu (2007) summarised best by stating that in terms of economic growth, the only thing worse than a society with a rigid over centralized, dishonest bureaucracy is one with a rigid, over centralized bureaucracy. It is instructive to note that the modernization theory had been replaced with the principal-agent theory by the neoclassical economists. In their view, corruption amounts to principal-agent problem (Abu, 2007). In this case, it is the state which is the principal that entrusts the task of allocation rights to appropriate resources to its agents, i.e., the administrators. This means that there would be no corruption if the state had nothing useful for the private interests to allocate selectively.

Modernisation theories provoked a great deal of criticisms from radical scholars such as Andre Gunder Frank, Claude Ake, Bode Onimode, Shegu Oshoba, Zwingina Silas and others who argued that colonialism and Western capitalism were the two major factors responsible for the underdeveloped nature of Third World countries. The Western industrialised countries developed by exploiting human and natural resources of their colonies and by making them economically dependent on their colonial powers after independence. Neo-colonialism continues as western industrialised countries continue their political and economic domination of their former colonies. The theory states that development in metropolitan capitalism is the underdevelopment in the periphery. The modernisation theory is adopted in this study because the behaviour of leaders in Africa shows that they lack the personality trait and motivation skill that will lead to growth and development.

V. The Interface between Leadership, Corruption, Governance, and the Theory of Two Public

The concept of leadership evokes several meanings and studies elaborating different dimension of it abound. Leadership is both the adhesive and catalyst which bind citizens of a given country together and triggers their motivation towards the achievement of individual and group objectives. To Bedeian (1986), leadership is the art of influencing individual or group activities towards the achievement of organizational or societal objectives. Also, leadership involves the inducement of followers by the leader to act for certain goals that represent the values and motivation, the wants and needs, the aspirations and expectations of both leader and followers (Burns, 1978).

After a careful examination of the leadership impasses in Nigeria, Achebe (1983) concludes that:

> *The trouble with Nigeria is simply and squarely a failure of leadership. There is nothing with the Nigerian land or climate or water or air or anything else. The Nigerian problem is the unwillingness or inability of its leaders to rise to its responsibility, to the challenge of personal example which is the hallmarks of true leadership.*

Surely, leadership holds the key to unlocking the transformation question in Nigeria, but to sustain this drive, leaders must carry certain genes and attributes that are representative and promotive of this order. These include: (i) The existence of practical, purposeful, visionary, and missionary initiative by the individual, reflecting the objectives of held ideas, values and aspirations, (ii). The existence in an individual of a clear set of ideas, values, aspirations reflecting those of the majority who are the subject or followership, and (iii). The existence of patriotic and nationalistic spirit, transparency and accountability, signs of concrete achievements involving the extent to which intended effects are produced by the leader. These are the core values of good governance.

Many scholars of African descent and politics such as Osaghae (1988) and Ekeh (1975) have traced the problem of leadership, corruption, and governance in Africa to the wickedness of colonialism. Theory of two public is credible not only in the understanding of the state and its predicaments in Africa but also in providing important explanations for the pandemic leadership deficit, corruption and bad governance ravaging African countries. Ekeh (1975), argued that one of the most striking impacts of colonialism was the emergence of two public realms, the primordial and civic public realms which related differently with the private realm in terms of morality. For Nigeria in particular and Africa in general, Ekeh argued that only rights/benefits are expected from the state by its citizens, who owe duties/responsibilities to a native sector. The former forms the basis of an "immoral civic public realm" and the latter a "moral primordial public realm". Therefore, the civic public realm was associated with illegitimate and exploitative colonial rule and had no moral linkages with the private realm. It was an immoral public realm in which cheating the system was considered a patriotic duty (Ifidon, 1996).

The result is that, as the same actors operate in the two realms, the state apparatus is employed to fatten the nest of the primordial public, thereby making corruption, nepotism, impunity and ethnicity to mention a few, the hallmark of the civic public (Osaghae, 1988). According to Ekeh (1975):

> *A good citizen of the primordial public gives out and asks for nothing in return; a lucky citizen of the civic public gains from the civic but enjoys escaping giving anything in return whenever he can. But such a lucky man would not be a good man when he channels all his lucky gains to his private purse. He will only continue to be a good man if he channels part of the largesse from the civic public to the primordial public. That is the logic of the dialectics. The unwritten law of the dialectics is that it is legitimate to rob the civic public in order to strengthen the primordial public.*

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Dudley (in Akhakpe, 2014) made one of the elaborate attempts at explaining the political behavioural and institutional patterns and nature of societies in terms of Weberian postulations on individuals and collective values embedded in their culture. The central thrust of Dudley's perspective is on the impact of the country – wide premium placed on wealth and status on politics. In Nigeria for example, there is the use of political office to enrich one's self. This is not seen however as corruption in as much, as the person involved is seen as contributing such ill-gotten wealth to the welfare and development of his or her community (Osaghae, 2011). In addition, Osaghae (1994) stresses that the material perception of the state has made the political elite to seek for power mainly to enrich themselves and members of their groups. The reason why people seek power is not to further the ends of the people and community but that of self.

The relevance of the theories to this paper is that, it provides a framework for understanding the wide gap between the (leaders) civic public and the (followers) primordial public. These disconnect between the leaders and the citizens are evident. The leaders did not emerge from among the people; rather they were imposed on them by godfathers and political parties, showing clearly what a political corruption is, *as defined by the United Nations Global Programme Against Corruption (GPAC) "abuse of power for private gain"; which entails the form of patronage, election rigging, and voters register manipulation, favouritism in the award of contract, procurement scam, tribalism and nepotism in recruitment and promotion, unfair punishment, and sanctions for public officials".* Since the elected officials are not accountable to the people, the leaders engage in corrupt act and bad governance with impunity at the expense of the ordinary citizens. On the other hand, due to the nature of the society, a corrupt official remains a good man as long as he channels part of the money he or she stole to satisfy ephemeral yearnings of a few, jettisoning programmes and projects that will improve the life of few people.

VI. Theory of Resource Curse

Two of the exponents of resource curse, Auty (2004) and Ross (2001), observe that since the 1960s, the resource-poor countries have outperformed and grown higher than resource rich countries. Extant literature reveals that oil dependence leads to a skewing of political forces. It concentrates revenues from resources to geographic enclaves and power into the hands of few elites; this reduces their incentive to develop the governance mechanisms that enable general taxation. Empirical studies reveal that oil-dependent nations especially in developing African countries that have at least 25% of their exports from natural resources are more likely to have conflicts (Bamiduro, 2012). Bamiduro further opines that "resource conflicts seem to be driven by poor governance, greed and corruption." Oil-dependent-rich states often lack basic ethics, transparency, and accountability, and are also characterized with poor people (Abubakar, 2004).

It has become axiomatic that countries rich in natural resources, especially oil and gas, grew slower than those without (Ross, cited in Otaha, 2012). "Major oil producers such as Algeria, Angola, Iran, Saudi-Arabia and Venezuela have experienced fundamental decline in per capita income in recent decades" (Otaha, 2012, p. 85). In 2004, Nigeria's Relative Poverty measurement of Nigerians living in poverty stood at 54.4% but increased to 69% (or 112,518,507 Nigerians) in 2010; while in 2004, Nigeria's Absolute Poverty measurement of Nigerians who were living in poverty stood at 54.7% but increased to 60.9% (or 99,284,512 Nigerians) in 2010 (Yemi, 2012), even though the country earned more than US$340 billion in oil revenues since the 1970s (Otaha, 2012). It is disheartening that of all the oil companies operating in the Niger Delta region, none of them were owned by Nigeria or Nigerians; hence, the so-called national cake is not even baked by Nigerians but by multinational companies owned by foreigners (Otaha, 2012), and this often leads to capital flight to home countries of the multinationals. Observation shows that:

> *in Angola where 90 percent of government revenues come from oil and two thirds of the population have no access to clean water, good schools, and medical facilities while its autocratic president is the richest in the country; a recent IMF audit reveals that US$4.2 billion oil revenue of Angola went missing between 1996 and 2001. (Otaha, 2012).*

Angola is ranked 151 on its Corruption Perception Index (CPI) in 2006. In fact, a majority of resource (oil)-dependent rich countries rank extremely low in the World Bank's Voice and Accountability Index. Most of these governments are reddened in corruption, and their leaders often have a seat-tight syndrome to stay in power for life. For example, Zaire's President, Mbuto Sese Seko, stayed in power for 32 years (from 1965 to 1997; Otaha, 2012). In Nigeria, General Gowon attempted it in 1975, Shagari in 1983, Babangida in 1993, Abacha in 1998, and Obasanjo in 2006; the story is the same in most oil-producing states (Otaha, 2012). In oil-dependent states (as opposed to non-oil dependents), nutrition and life expectancy is often low, child mortality is high, unemployment is often rising, literacy rate increases at decreasing rate, and food importation is prevalent, even though they have the capability to produce food in abundance.

Nigeria with a total dependence on oil revenue is doomed because resource wealth often floods governments with more revenue than they can effectively manage, thereby providing incentive for corruption (Dietz & Eric, 2005). Oil revenues in Nigeria

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tend to be collected by governments in ways that are unusually difficult for citizens to track and unusually easy for crooked officials to divert; hence, some revenue end up in off-budget accounts or the pockets of government officials, and is never heard of again (Ross, 1999). Mehlum and Ragner (2002) observe that governments that depend on oil and that get their revenue from natural resources become less democratic and hence less accountable than countries that rely on other income sources such as taxation. In some cases, governments of resource-dependent countries use their largesse to prevent the formation of independent social groups that might eventually demand political rights (Isham, Pritchett, Woolcock, & Bushy, 2004). Although there are examples of countries that broke the oil curse, others avoided it altogether (Otaha, 2012). The United States, the United Kingdom, Norway, Canada, and so on consist predominantly of states that were already democratic with effective application of the rule of law before oil came along. Another group, however, has successfully moved from oil doom to oil blessed; these include Mexico, Dubai, Indonesia, and so on (Otaha, 2012). Indonesia economy has tripled over the last 20 years. Since the mid-1990s, it has been using its oil receipts to build world-class infrastructural facilities in areas of education, health, agriculture, and social services (Otaha, 2012). The country is growing at 16% per year, and oil, once its primary source of income, is now around 6% of the GDP (Ross, 2001). Three decades ago, Indonesia and Nigeria had comparable per capita incomes. Today, Indonesia is 10 times better than Nigeria. Today, per capita income in Nigeria has declined at a worrisome level because of corruption being sustained by oil revenue.

VII. Corruption in Nigeria: historical Perspective

Corrupt practices are not issues just beginning today in our society; its history is as old as the world (Lipset & Lenz, 2000:3). Most countries around the globe are noted for their area(s) of specialization. Nigeria is best known for her corrupt practices, and this has been on for decades. The country formally came into existence about a hundred years ago and more precisely in 1914 with the amalgamation of the Northern and Southern protectorates by Lord Lugard. According to Fawole (2013:9) there was no objective criterion for the amalgamation except for the administrative convenience of the British colonialist. The Northern and Southern protectorates had little or nothing in common.

From 1960 to date, the word 'corruption' has become the order of the day in every facet of our national life. No wonder that the Transparency International (TI), an organization based in Germany has consistently rated Nigeria as one of the most corrupt country over the last one decade. During the second term of Chief Olusegun Obansanjo as a civilian president, there were rays of hope, as he indicated his willingness to hold the bull by the horn and tackle the "hydra-headed" monster called corruption, considering several institutions established to combat corruption including the Independent Corrupt Practice and other Related Offences Commission (ICPC) and Economic and Financial Crimes Commission (EFCC) which came into being in 2000 and 2004 respectively under the administration of President Olusegun Obasanjo to deal with other unethical practices in the high and low places. This is an effort which has not been sustained by subsequent civilian administrations in the country. This is why today, some school of thought believe that the EFCC is more corrupt than when it started because after Mallam Ribadu left the organisation, the institution is yet to win a case levelled against some notorious corrupt officers. The EFCC has been rendered useless by the National Assembly and it is now a toothless bulldog.

a) Forms of Corruption in Nigerian Public Sector

Although political corruption is perceived differently from one territory and geographical location to another, the following behaviors are regarded as forms of political corruption in Nigeria: acceptance of gratification; succumbing to inducement and undue influence; embezzlement; conflict of interests, for example, the award of contracts by pubic office holders to cronies, family members, and personally held companies; bribery; fraud; nepotism and tribalism in recruitment/appointment, promotion; kickback on contract; rigging of elections; misappropriation and conversion of public funds for personal gains; procurement scam; leaking tender information to friends and relations; diversion and misappropriation of funds through manipulation or falsification of financial records; payment for favorable judicial decisions, and so on (Azelama, 2002; Ijewereme, 2013; Waziri, 2010).

i. *Electoral Corruption*

This refers to buying of votes with money, intimidation of agents of opposition parties at the Polling units, obstructing the freedom of election, and engaging in ballot snatching and stuffing (Idada & Uhunmwuangho, 2012). It involves manipulation of voters' register, brigandage, and all manner of electoral violence leading to killing and maiming of people. It also involves multiple thumb printing on ballot papers, the announcement of votes in areas where votes were not cast, and winners of elections ending up as the losers.

ii. *Nepotism*

This is a highly biased method of distribution of state resources where a public officer prefers his or her relatives and family members or friends in awarding contracts, job recruitment, promotion, appointment to public positions, thereby ignoring the merit principle; this may lead to the downgrading of the quality of the public service (Amundsen, 1997; Commonwealth Association

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for Public Administration and Management, 2010). It also includes exemption of once relatives and friends from the application of certain punitive laws or regulations, and this may disrupt esprit de corps and trust. Nepotism provides room for "preferential treatment of one individual over another, without taking into accounts the relative merit of the respective individuals; this represents nothing but victimization of an individual or individuals" (Commonwealth Association for Public Administration and Management, 2010).

iii. *Favouritism*

This is a form of corruption where a public servant gives undue preference or favour to his or her friends, family, and anybody close and trusted in recruitment, promotion, and so on.

iv. *Procurement Scam*

This refers to overinvoicing of government contracts or corruption related to purchases. That is,

> *the purchase price of an item is inflated so that the difference between the inflated price and actual price is shared between the person who does the purchasing and the sellers or it is taken by the purchaser alone with the seller conniving. (Azelama, 2002, p. 92).*

v. *Ghost–Workers Phenomenon*

This is a practice where the management of a public organization deliberately inflates the payroll by including fictitious names to get more subventions for salary. The excess is siphoned by the members of management in connivance with some members of governing councils or boards (Azelama, 2005).

vi. *Budgeting Corruption*

This is a form of corruption where management of a public organization in connivance with governing council or board minister/commissioner bribes some members of the legislature to approve inflated estimate for the institution during budgeting. In a situation where the budget is already approved, the management is expected to give tips or gratifications to the government functionaries whose duty it is to release money to the institutions (Azelama, 2005).

b) The Effects, Nature and Causes of Corruption in Nigeria

The effects of corruption in Nigeria are outrageous. The effects range from under development, absence of basic infrastructure such as potable water, good road networks, misappropriation of national resources leading to massive poverty, mediocrity in leadership and cluelessness in professionalism, deficient leadership outputs, high unemployment and youth hopelessness, continuous widening gap between the rich and poor, and falling standard of education leading to production of low-quality graduates (Waziri, 2010). Corruption has made students and products of the tertiary institutions suffer from loss of self-confidence, hopelessness, and loss of confidence in handwork and societal value. It has lowered the image of academic and non-academic members, as well as governing councils of most public tertiary institutions in Nigeria. Corruption denies access to basic education and health services, fuels political violence, generates popular anger that threatens to further destabilize societies, and exacerbates violent conflict (TI, 2012). It distorts public expenditure, increases cost of running businesses as well as cost of governance, and diverts resources from poor to rich nations. It has frustrated research efforts, derailed administrative goals, instigated organizational goals displacement, and it has also drastically reduced the image of Nigeria in the international communities to mention just a few (Azelama, 2005; Waziri, 2010).

It is extremely appalling that despite the long years of independence, Nigeria, the so called "giant" of Africa is still battling with the problem of good governance. The crop of leaders that have attained leadership position since independence had in one way or the other lacked vision, most of them have been engrossed with corruption and political bickering leading to the enthronement of maladministration and mismanagement of public resources, and consequently economic setback and abject poverty as nation heritage (Lawal & Owolabi, 2012:9). Since Independence in 1960, corruption has persisted and grown enormously in variety and magnitude. Pervasive corruption endures in both the private and public sectors of the Nigeria society; however, the emphasis here is on public sector corruption which contributes more than 70% of the corruption cases in Nigeria and as well, seen as the source of heightened divide between Nigeria' wealth and its poverty (Abiodun, 2012:5). Significantly, Nigeria is among the countries of the world endowed with immense natural and human resources that are capable of improving socio-economic status and living standards of the citizenry; but the reverse has always been the case. In view of this ugly trend, one begins to wonder what kind of superficial "giant" position Nigeria claims to hold in Africa, after almost fifty-three (53) years of independence with nothing to show for it.

Even though no country in the world is corrupt free, corruption in the case of Nigeria has become very worrisome because she has consistently been placed among the most corrupt nations in the world. The pervasive and deep-rooted nature of corruption in Nigeria is indicated by the fact that in 1996, Transparency International (TI) ranked Nigeria as the 2nd most corrupt nation among the 54 nations surveyed. In 1998, Nigeria was again ranked the 2nd most corrupt nation out of the 85 countries polled by TI. In 2001, Nigeria was ranked 90 out of 91 countries polled. By 2009, the Global Corruption Perception Index (CPI) by TI rated Nigeria 130th out of the 180 countries surveyed. For the year, 2010, Nigeria ranked 134th out of 178 countries assessed. In 2011, the TI, in its report

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on corruption perception, rated Nigeria as the 143 most corrupt nations out of the 183 countries surveyed (Chukwuemeka, et al, 2012; Lipset & Lenz, 2000:244; Abiodun, 2012).

There are varieties of corruption as they manifest in Nigeria, these include: political, bureaucratic, private, public, materialistic and non-materialistic corruption, petty corruption and grand corruption, systemic and non-systemic corruption, etc (Fawole, 2013:5). According to him, grand corruption, otherwise known as "State Robbery" in the public sector is the main problem in Nigeria. 'State Robbery' is a variety of corruption where members of the political and bureaucratic elite simply plunder the national treasury through brazen theft, or through other ingenious methods ranging from deliberate alteration of documents, facts and figures to make money; outright collection of bribe, the type we heard so much about in the National Assembly, which led to the removal of a Senate President who allegedly demanded and obtained cash incentives from a Minister of Education; deliberate embezzlement of funds, such as is acted out in Ministries, Departments and Agencies (MDAs) to mop up unspent funds before the close of the financial year. Other varieties of 'State Robbery are falsification of contract figures through inflation, over-invoicing, periodic upward reviews of contract sums, a practice that still goes on in MDAs; contract splitting, an offence for which Chief Olabode George, a People Democratic Party Chieftain who was Chairman of the Nigeria Port Authority (NPA) went to jail; fraud, graft, misappropriation and misapplication of funds for personal aggrandisement; payoffs and contract kickbacks; and several others such as profiteering, shadiness, prolificacy, distortion, doctoring, falsification, etc.

Experiences in Nigeria seem to support the view that political and administrative malfeasance feed on each other (Abu, 2007:39). Over centralization of authority, and under or over-elaborated rules of authority is a major contributory factor to governmental corruption. The evil called corruption at the highest level distorts competition by denying the public access to competitive marketplace (Pope, 1996). Also, great inequality in the distribution of national wealth; the reliance on political office as the primary means of gaining access to wealth; the conflict between changing moral codes; the weakness of social and governmental enforcement mechanism; and the absence of strong sense of national community have been identified as other causes of corruption.

As a matter of fact, corruption in Nigeria has resulted to a reduction in the quality and quantity of goods and services available to the public as reflected in poor infrastructures, poor quality of education standards, poor health facilities and high cost of living and rising social insecurity. On the aspect of political development, corruption has often led to the inability of the nation to develop and consolidate its democratic practice as excessive corruption has often led to erosion of government legitimacy, defective leadership input and democratic destabilization through military takeover of government and truncation of civilian rule (Abiodun, 2012; Ugwuanyi, 2011).

There is no doubt that at the root of corruption quagmire in Nigeria is the failure and virtual collapse of governance, the contamination of democratic values, the erosion of accountability procedures, and the prevalence of bad leadership. Thus, the consequences of corruption can be disastrous. Corruption and carelessness are said to be at least partially responsible for the very heavy death toll in the massive earthquake that struck Haiti in 2010. There is no doubt that the scourge of corruption has impacted governance significantly in developing countries where it is mostly perpetrated.

Corruption undermines the legitimacy of government and democratic values of trust and tolerance. Corruption increases the cost of business through the price of illicit payments. It generates economic distortions in the public sector by diverting public investment into capital projects where bribes and kickbacks are more plentiful. Corruption also lowers compliance with construction, environmental, or other regulations, reduces the quality of government services and infrastructure, and increases budgetary pressures on government. Also, some other consequences of corruption include the fact that it can make other people suffer for the corrupt practices of an individual. An example was a situation where the education of a child is stopped because of corrupt practice of people in leadership position who have failed in their responsibility in addressing the education problem in the country (Adesuyi, 2013). The effect of corruption is grave that many organisations have been established to monitor corruption and promote efforts to reduce it in governance globally.

Familoni (2007) and Dike (2003) agreed that corruption causes a reduction in quality of goods and services available to the public, as some companies could cut corners to increase profit margins. Corruption affects investment, economic growth, and government expenditure choices; it also reduces private investment and fuels inflation. Empirical evidence from a number of researches, for example, Bello Imam (2004) shows that corruption contributes immensely to inhibition of economic performance and consequently affects investment and economic growth which is antithetical to national development (quoted in Muhammed, et al, 2008). Moreover, corruption can also upset ethnic balance and exacerbates problems of national integration in developing countries. Familoni (2007) observes that if a corrupt but popular ethnic leader is replaced in his or her position, it may 'upset ethnic

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arithmetic', the cohorts may revolt, and this may engender the disintegration of the state. Moreover, the legitimacy of a particular government can be destroyed by corruption. It has been a stumbling block to the people enjoying the economic and social fruits of democracy (Muhammed, Ayinla & Muhhammad, 2008:83). Furthermore, corruption is said to have contributed significantly to mass poverty in Nigeria. It has rendered several millions of Nigerians jobless and uneducated. There is no doubt that corruption has been attributed to mass poverty which has been breeding all forms of extremisms in the country, most especially the Niger-Delta crisis and the recent Boko Haram insurgency which has threatened the security, unity and co-existence of Nigeria as a nation-state.

The most damaging effect of corruption is that if left unchecked, it grows, intensifies, and spreads like cancer to vital centres of government with powerful influences on the public. Already, the negative multiplier effect of corruption in Nigeria has manifested in the mass spread of poverty and the nation's unenviable position in the list of poor and underdeveloped countries of the world (Chukwuemeka, et al, 2012). Corruption causes a serious development challenge, in the political sphere; it undermines democracy and good governance by weakening political processes. Corruption in elections subverts accountability and representation in policy making, in the judiciary it suspends the rule of law and in the public service it leads to unequal distribution of services (Dininio & Kpundeh, 1999). Corruption wastes skills because time is often a huge waste to set up anti-corruption agencies to fight corruption and also to monitor public sectors. Above all, corruption diverts scarce public resources into private pockets, it weakens good governance; it also threatens democracy and erodes the social and moral fabrics of a country (Dike, 2008). Within the context of the Nigerian state, it is not as if successive governments have not realized the problem posed by corruption to the socio-economic and political development of the country. Without doubt, successive governments at one point or the other have made series of attempts at combating corruption through series of anticorruption campaigns (Lawal & Tobi, 2006). What is in doubt, however, is what the impact of this anti-corruption campaign is?

c) *Examining Corruption and Governance in Nigeria in Retrospect*

The rise of public administration and the discovery of oil and natural gas are two major events believed to have led to the sustained increase in the incidence of corrupt practices in the country. Efforts have been made by the government to minimize corruption through the enactment of laws and the enforcement of integrity systems but with little success. Greed, ostentatious lifestyle, customs, and people's attitudes are believed to have led to corruption. Another root cause is tribalism. Friends and kinsmen seeking favour from officials can impose strains on the ethical disposition of the official as these kinsmen see government officials as holding avenues for their personal survival and gain.

Corruption, though prevalent, was kept at manageable levels during the Pre-independence and the First Republic. However, the cases of corruption during the period were sometimes clouded by political infighting. Azikiwe was the first major political figure investigated for questionable practices. In 1944, a firm belonging to Azikiwe and family bought a Bank in Lagos. The bank was procured to strengthen local control of the financial industry. Albeit, a report about transactions carried out by the bank showed though Azikiwe had resigned as chairman of the bank, the current chairman was an agent of his. The report wrote that most of the paid-up capital of the African Continental Bank were from the Eastern Regional Financial Corporation. In western Nigeria, politician Adegoke Adelabu was investigated following charges of political corruption levelled against him by the opposition. In the Northern region, against the backdrop of corruption allegations levelled against some native authority officials in Borno. The Northern Government enacted the Customary Presents order to forestall any further breach of regulations. Later on, it was the British administration that was accused of corrupt practices in the results of elections which enthroned a Fulani political leadership in Kano, reports later linking the British authorities to electoral irregularities were discovered.

The Government officials in Tafawa Balewa's government in the First Nigerian Republic looted public funds with impunity. Balewa did not take any policy position to wipe out the menace (Ijewereme & Dunmade, 2014). The history of electoral corruption in Nigeria started in 1964 and 1965 elections. The 1964 and 1965 elections of the Nigerian First Republic were flagrantly rigged by the ruling Northern People's Congress (NPC) government headed by Prime Minister Tafawa Balewa (Ajayi, 2008). Dudley (1982) observes that the ruling party abused the electoral procedure to the detriment of the opposition parties, especially the Action Group (AG). The result of the election was completely rejected by all the opposition parties and consequently resorted to widespread violence such as killing, arson, and destruction of properties in the western region of Nigeria (Ogundiya & Baba, 2005). Corruption, massive rigging of the 1964 and 1965 elections, violence in the western region, avarice, internal strife, and drifting of the country were said to be the reasons middle-ranked army officers sacked the Nigerian First Republic politicians from power through a coup d'état on January 15, 1966 (Ijewereme & Dunmade, 2014).

The cry against corrupt practices in Nigeria became public glare and worrisome under General

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Yakubu Gowon's administration. Gowon's administration was unashamedly corrupt to the macro-level, and corruption was not hidden from the public gaze (Lawal & Tobi, 2006). According to Nigerian Tribune August 1st, 1975 (cited in Lawal & Tobi, 2006), his promise to enact anti-corruption decree like other promises was never fulfilled. The level of corruption under Gowon's regime came under intense public scrutiny when Murtala Mohammed became the head of state and set up Assets Investigation Panel (AIP), to probe the governors and other public officers that served under Gowon. The panel indicted 10 of 12 military governors, and so their assets were confiscated. The anti-corruption crusade spread to the entire public service; thus, the purge of the public service led to the retirement and dismissal of more than 10,000 public servants nationwide (Anazodo, Okoye, & Chukwuemeka, 2012).

Accordingly, one would have expected Murtala war against corruption to enthrone deterrence in Nigerian public service. Unfortunately, it is disheartening that the politicians of the Second Republic during Shehun Shagari's administration were not deterred, despite the ignominious ways the indicted governors that served under Gowon were treated. The politicians of the Second Republic engaged in all forms of corrupt and unethical practices of different shades. The period was marked by fragrant abuse of power by virtually all public officers—career and political office holders. The political office holders used their offices to siphon and misappropriate public fund (Lawal & Tobi, 2006).

The military administration led by Major-General Muhammed Buhari who took over power from the Shagari's administration was extremely determined to eradicate corruption from Nigeria through the War Against Indiscipline (WAI) crusade. Various tribunals both at the federal and state levels were instituted to probe the political actors of the Second Republic. The Paul Omu–led tribunal found most of the politicians guilty and sentenced them to long jail terms (Lawal & Tobi, 2006). The Babangida administration that ended the Buhari's administration through a coup d'état on August 27, 1985, did not show any commitment to the anti-corruption drive of its predecessor. Maduagwu cited in Lawal and Tobi (2006) listed the following as some of the highlights of Babangida corrupt practices:

1. US$2 billion Gulf war wind fall in 1991.
2. 30% of oil revenue diverted to frivolous uses throughout the time.
3. Huge extra-budgetary spending: 1989 = N15.3 billion, 1990 = N23.4 billion, 1991 = N35 billion, 1992 = N44.2 billion, 1993 (by August) = N59 billion.
4. US$200 million siphoned from the Aluminum Smelter project.
5. N400 million wasted on the Better Life Project.
6. Colossal Corruption at the Nigerian National Petroleum Corporation (NNPC), for example, US$101 million for the purchase of strategic storage facilitation.

The Okigbo panel set up by the General Sani Abacha–led administration to look into the Babangida administration indicted General Babangida and the Governor of the Central Bank of Nigeria (CBN) of a frivolous looting spree and clandestine spending (Anazodo, Okoye, & Chukwuemeka, 2012; Ijewereme & Dunmade, 2014).

The Abacha administration that took over from the interim National Government followed the pace set by the Babangida administration in looting the government treasury. The entire country became an extension of his personal estate within a space of 5 years, amassed so much wealth than the wealth of most countries in Black Africa put together (Ebegbulem, 2012; Ijewereme & Dunmade, 2014).

A total sum of N63.25billion was said to have been recovered from the Abacha family. In fact, parts of the Abacha legendary stolen wealth are still being recovered from his family till date (Ijewereme & Dunmade, 2014). The Abdusalam administration is not an exception from the mass looting of the public treasury. The Christopher Kolade panel set up to review contracts, licenses, and appointment made under the Abdusalam administration came out with shocking revelation. The panel found beyond imaginable proportions that, though Nigeria was already neck deep in corrupt practices, the Abdusalam administration made a mockery of any sense of discipline and probity and at a scale that practically made saints of his predecessors (Anazodo, Okoye, & Chukwuemeka, 2012; Lawal & Tobi, 2006). The panel specifically reviewed 4,072 contracts, 576 licenses, 807 appointments, 768 awards, and 111 approvals all made within 5 months. The panel submitted that the 4,072 contracts cost Nigeria N635.62 billion as against the N88 billion budgeted in 1998, this representing a deficit of N551 billion. The panel also revealed the depletion of the foreign reserve, which at the end of 1998 stood at US$7.6 billion but shrank to US$3.8 billion by May 1999.

In a similar vein, when Obasanjo came to power in 1999, he told Nigerians that corruption was the major clog in the wheel of Nigeria's progress and, until the social menace is eradicated, development will continue to elude Nigeria. Accordingly, Chief Olusegun Obasanjo signed the anti-corruption bill into law that established the Independent Corrupt Practices And Other Related Offences Commission (ICPC) and Economic and Financial Crime commission (EFCC) that are in the ongoing political dispensation in the Fourth Republic (Aderonmu, 2009; Ijewereme, 2013). Unfortunately, these institutions made little impact in the war against corruption in the Nigerian public sector. For instance,

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some western diplomats were of the opinion that Nigeria lost between US$4 billion and US$8 billion annually to corruption during the 8 years of Obasanjo's regime (Human Rights Watch, 2007). In a similar vein, Transparency International (TI), scored Nigeria very low for 4 consecutive years; the scale showed that, on the scale of 10, Nigeria scored 1.6 in 1999, 1.2 in 2000, 1.0 in 2001, 1.6 in 2002, and 1.4 in 2003 (Ijewereme, 2013). However, when Nuhu Ribadu became the chairman of newly created EFCC in November 2003, Nigeria corruption profile started declining gradually, as reflected in TI (2008) scale 1.6 in 2004, 1.9 in 2005, 2.2 in 2006, 2.2 in 2007, and 2.7 in 2008. But Ribadu's legacy has been diminished by widespread belief that his anti-corruption agenda was selective, dictated by the political whims of the presidency to deal with perceived opponents and enemies, while the cronies and heavily corrupt officials in the good books of the then president Olusegun Obasajo were untouched. Obasanjo's administration was lucidly described by Oluwasanmi (2007) as follows:

> *Corruption became all pervading; electoral fraud common place, personal insecurity and unresolved assassinations characterized his regime just as much as disobedience of court rulings. Many infrastructures were left to decay while he pursued an attempt to stay longer in office by trying to amend the constitution. He pursued to jail or impeachment those governors who did not agree with him using corruption as the weapon: On corruption those who agreed with him were unscathed. Though, he tried to reorganize some arms of government—The civil service and finance.*

Obasanjo's administration was characterized by unthinkable greed, hatred for the rule of law and human rights, selective investigation of corrupt public officials, and inefficient handling of the economy (Aderonmu, 2009). Furthermore, the revelation after the end of his government showed that he waived due process for awarding of contracts; he sold government property to himself and his cronies below the cost price (Aderonmu, 2009; Ebegbulem, 2012; Imhonopi & Ugochukwu, 2013; Oluwasanmi, 2007).

In addition, Yar' Adua's government constantly reaffirmed his administration's determination to combat corruption and proclaimed respect for the rule of law and due process, but his actions and body language revealed the contrary (Aderonmu, 2009; Ijewereme, 2013). Yar' Adua's government through the office of Attorney General of the Federation made frantic efforts to (undermine the fight against corruption) prevent James Ibori, the former governor of Delta State, from being prosecuted and jailed. James Ibori was a close associate of Yar' Adua as well as one of the major financiers of Yar' Adua's election. Umaru Yar' Adua forced Ribadu from office just 2 weeks after he tried to prosecute powerful former Delta State Governor James Ibori (Human Rights Watch, 2011).

However, president Goodluck Ebele Jonathan's administration could not show the courage and tenacity to fight corruption in the face of many allegations of corruption perpetuated and reported often about public officials. Recent audit report on Goodluck Jonathan's administration discovered unprecedented ghost employees in the Nigerian Federal Civil Service. The fraud of ghost employees on payroll is also common to many states in Nigeria. Billions of Naira are wasted to fraudsters on monthly bases, and there are more than 45,000 unaccountable workers on the federal payroll alone, and government is spending over N100b annually (Okekeocha, 2013). The most worrisome is that Nigerians have not been informed or given account on what is being done to the perpetrators of this heinous crime. In a similar vein, the board of the Nigerian national Petroleum Corporation (NNPC) and the Minister of Petroleum supervising NNPC, Diezani Allison Madueke, were indicted of corruption; the president sacked the board of NNPC without sacking the Minister of Petroleum. "Mrs Daziani Allison Madueke has been indicted by five different investigative panel Committees reports at different time, yet she confidently remains in charge of the Ministry unperturbed" (Melaye, 2013a, p. 2). This is simply because she has family ties with president Goodluck Ebele Jonathan. An international tax and audit firm, KPMG, audit report indicted the NNPC, Petroleum Product Pricing Regulatory Agency (PPPRA), and the Ministry of Petroleum of large-scale corruption and absence of transparency. According to Melaye (2013a), "the Farouk Lawal Report of the House of Representative Investigative Committee: Spoke elaborately of unprecedented Corruption between bureaucracy and the marketers of petroleum products" (p.2). The marketers cannot put their hands into government treasury to pay themselves without approval from appropriate authorities such as NNPC, PPPRA, Minister of Petroleum, CBN, and of course Minister of Finance (Melaye, 2013a). It is disheartening that, till date, no government official in these ministries and agencies has been invited by the anti-graft agencies or police on these excessive subsidy scandals (Melaye, 2013a). According to Melaye (2013b), the government of President Goodluck Jonathan is yet to convict one corrupt political official; not one politically exposed person has been convicted of corruption under Jonathan's administration. Corruption is flourishing in Nigeria because there is a complete lack of political will to combat the monster by successive governments, especially President Goodluck Jonathan's administration. Melaye (2013b) is of the opinion that the situation would continue, except the power to appoint the EFCC, and the ICPC chairmen is removed from the president.

New allegations of corruption that have emerged since the departure of President Jonathan on May 29, 2015, including:

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1. $2.2 billion illegally withdrawn from Excess Crude Oil Accounts,[57] of which $1 billion supposedly approved by President Jonathan to fund his re-election campaign without the knowledge of the National Economic Council made up of state governors and the president and vice president.
2. NEITI discovered $11.6 billion was missing from Nigeria LNG Company dividend payments.
3. 60 million barrels of oil valued at $13.7 billion was stolen under the watch of the national oil company, Nigerian National Petroleum Corporation, from 2009 to 2012.
4. NEITI indicates losses due to crude swaps due to subsidy and domestic crude allocation from 2005 to 2012 indicated that $11.63 billion had been paid to the NNPC but that "there is no evidence of the money being remitted to the federation account".
5. Diversion of 60% of $1 billion foreign loans obtained from the Chinese by the Ministry of Finance.
6. Massive scam in weapons and defense procurements, and misuse of 3 trillion-naira defense budget since 2011 under the guise of fighting Boko Haram.
7. Diversion of $2.2 million vaccination medicine fund, by Ministry of Health.
8. Diversion of Ebola fight fund up to 1.9 bn naira.
9. NIMASA fraud under investigation by EFCC, inclusive of accusation of funding PDP and buying a small piece of land for 13 billion naira.
10. Ministry of Finance led by Okonjo Iweala hurried payment of $2.2 million to health ministry contractor in disputed invoices.
11. NDDC scams and multifarious scams including 2.7-billion-naira worth of contracts that do not conform to the Public Procurement Act.
12. Police Service Commission Scam investigated by ICPC that revealed misappropriation of over 150 million naira related to election-related training. ICPC made refund recommendations, but many analysts indicated prosecution was more appropriate.

The current administration of President Buhari can hardly be exonerated from the several scams in Nigeria in recent times. President Muhammadu Buhari came to power in the 2015 elections on the back of two key messages: improving the security environment and reviving the fight against corruption. The Presidency of Muhammadu Buhari has seen major action against corruption in Nigeria. In 2016, the Senate ad-hoc committee on "mounting humanitarian crisis in the North-East" led by Senator Shehu Sani indicted the then Secretary to the Government of the Federation appointed by Muhammadu Buhari, Mr. Babachir Lawal in a N200 million contract scandal for the clearing of "invasive plant species" in Yobe State by Rholavision Nigeria Limited; a company he owns. On October 30, 2017, President Buhari sacked Lawal based on the report of a three-man panel led by Vice-President Yemi Osinbajo that investigated him and one other. In 2016, Buhari was reportedly presented evidence that his Chief of Staff, Abba Kyari, took N500 million-naira bribe from MTN to help it slash the $5 Billion dollar fine slammed against it for violation of Nigeria telecommunications regulations bothering on national security. MTN fired the staff involved in the bribery scandal. But Abba Kyari was left intact in his position as Chief of Staff to national outrage forcing Buhari to announce the probe of Kyari. The findings of the investigation were never made public.

Abdulrasheed Maina was the head of the task force on pension reforms during the President Goodluck Jonathan led administration but fled Nigeria in 2015 after claims that he embezzled two billion naira ($5.6 million, 4.8 million euros). Despite the fact that an Interpol arrest warrant was issued, he still managed to return to Nigeria, where he was said to have enjoyed protection from the Buhari government. Maina had been fired from his position by Goodluck Jonathan's administration and was put under investigation for corrupt practices but was reinstated and given double promotion by Buhari administration. According to the senate through its committee on public accounts, 85 government parastatals under the present government under the leadership of Muhammadu Buhari are yet to submit their audit reports since the inception of this government. The flag bearer of the corruption fight in Nigeria, the EFCC has responded to the senate committee on public account's claim on the no submission of her account report by the institution and 84 others. The Economic and financial crimes commission denied the report issued by the committee claiming it was not true.

Despite criticism, the Nigerian Economic and Financial Crimes Commission (EFCC) announced in May 2018, that 603 Nigerian figures had been convicted on corruption charges since Buhari took office in 2015. The EFCC also announced that for the first time in Nigeria's history, judges and top military officers including retired service chiefs are being prosecuted for corruption. In December 2019, the country's controversial ex-Attorney General Mohammed Adoke, who was accused of being bribed to grant oil licenses to Shell, was extradited back to Nigeria from Dubai and was immediately arrested. In January 2020, however, Transparency International's Corruption Perception Index (CPI) still gave Nigeria a low ranking of 146 out of 180 countries surveyed.

The fight against corruption in Nigeria has completely becomes a lost battle. In the First Republic, corruption was 10%; in the Second Republic, it snowballed to 20%; during the general Ibrahim Babangida era, corruption was institutionalized, President Obasanjo's administration strengthened

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corruption, and for reasons best known to President Umaru Yaradua, he allowed the ICPC and the EFCC leadership to be occupied by corrupt officials (Falana, 2012). Falana further opines that corruption was perpetuated with impunity under President Goodluck Jonathan's administration to the extent that the war against corruption lost completely. According to Falana (2012), "the Auditor-General of the federation disclosed that 4.2 trillion Naira collected by Ministries, Departments and Agencies (MDAs) was not remitted to the Federation Account from 2006 to 2009." The Nigeria Extractive Industries Transparency Initiative reported that oil companies have failed to pay into the Federation Account about 10 billion dollars from 1999 to 2008. The Nuhu Ribadu–led Petroleum Revenue and Special Task Force revealed that Nigeria has been robbed to the tune of almost 100 billion dollars. The EFCC was led by Ibrahim Magu, untill July 2020 when President Muhammadu Buhari approved the suspension of the acting Chairman, Ibrahim Magu, from office. The suspension follows the investigation of allegations against him, which borders on misconduct and financial irregularities. It was suggested that, the investigation of the EFCC boss was to reinforce President Burahi's administration's commitment to transparency and accountability, adding that the holder of such office must be above suspicion.

All the indicted leaders in the cases of Siemens, Halliburton, and other scandals are walking freely and still dictating who gets what and how in the Nigerian political arena. All the foregoing shows the enormity of corruption and unethical practices in the Nigerian state. The issue is, "What are the major causes of these corrupt practices in Nigeria?" Different arguments have been put forward to explain the pervasiveness of corruption in the Nigerian state. These include poverty, personalization of public office, political culture, and inability of leaders to overcome their colonial mentality with respect of their perception of public office (Lawal & Tobi, 2006). Moreover, the magnitude of corruption in Nigeria since Gowon's regime to Goodluck Jonathan's administration has been attributed to political economy growth of Nigeria by some scholars, that is, the movement from dependence on agriculture in the 1960s to total dependence on oil and oil revenue (which became the major source of Nigerian wealth) from the 1970s, among other factors.

The problem of corruption in Nigeria has become dreadfully endemic and successive Nigerian governments have come to realize the problem posed by corrupt practices to the nation's economic and political development and have at different time devised various means to curb its menace. Without doubt, corruption has permeated the Nigerian society and in the words of Achebe (1988) "anyone who can say that corruption in Nigeria has not yet become alarming is either a fool, a crook or else does not live in this country." It should be noted that Nigeria has very good laws and constitutional provisions to combat corruption but there has been a general lack of implementation of these laws and this is one of the reasons why the nation is lagging behind in its campaign against corruption. Moreover, the leaders and the public officials who are supposed to spearhead this campaign against corruption are themselves unwilling and reluctant to fully commit to the course because they themselves are the masterminds behind the corrupt practices. As such, much is still desired in the fight against corruption in Nigeria, and unless something is done to increase the level of commitment of all the actors in this campaign, the country would continue to experience the adverse effects of this societal ill.

d) Corruption and Governance in Nigeria: Major Challenges

Several normative and empirical obstacles inhibit the efforts in promoting good governance and fight against corruption in a developing country like Nigeria. In what follows, we shall dwell on these challenges with a view of providing a road map for ameliorating, if not eradicating them.

The spirit of patriotism and nationalism in Nigeria and Africa in general seem to have gone with the attainment of political independence. Ever since then, African leaders hardly pursue the goals of the state but their own personal and sectional interest. To exemplify this, is a statement credited to President Goodluck Jonathan that the dreaded Islamic fundamentalist group 'Boko Haram' has infiltrated his government and nothing much has been achieved in the present administration, led by Mohamad Buhari. This bewildering statement is an indication that some cabinet members are there to pursue interest antithetical to that of the nation, thus, in these circumstances the issue of leadership and good governance remains a mirage.

The materialistic thesis and perception of the state in Africa and its institution is a hydra headed problem that has robbed the society of it leadership and governance essences. The state in Africa is seen as an avenue of primitive wealth accumulation. This notion and virus have affected the conduct of government business and regrettably has crept into the whole society. Banfield (in Osaghae, 1994) argued that the only reason people in this kind of society seek public office is to pursue their material gain and, in the process, neglect public wellbeing and interest. For example, Mobutu Saisasiko a former President of Zarie now Democratic Republic of Congo once told a bewildered nation "that it is not a crime to steal government money, only when you steal, steal small-small, and invest it in the country but you become an enemy of the state when you steal and invest outside the country" (see Akhakpe, 2014).

Yet, Nigeria and most African countries are plural societies with multi-ethnic and religious group.

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This throws up another problem in areas of representations at the federal, state and local government levels. One of the measures put forward to manage these diversities in Nigeria is the federal character principle. However, whether the principle has done well overtime is a different subject matter. But suffice to say that the application of federal character with tense ethnic relations have vitiated the value of merit with its attendant poor performance and service delivery in the public sector (Akhakpe, 2014).

Policy inconsistency, government instability and over reliance on foreign ideas to tackle domestic problems are common phenomenon and bane of effective leadership and good governance in Africa. Leaders hardly sustain the policies and programs of their predecessors; cabinet reshuffle is often expected because government is expected to be representative of all interest in the country. African leaders pursue non-indigenous policies with little or no knowledge of their application and implications.

While in developing countries desirous of development, corrupt practices by government official and leaders attract death penalty, in Nigeria and Africa in general, instead of tightening the punishment for corruption, it is been weakened by the so called 'plea-bargain'. For instance, some former governors who were indicted of stealing and miss-managing state funds escape punishment through this window of the law. The legal frameworks dealing on issues of corruption and bad governance should be redesigned to be no respecter of any one no matter how highly placed while the existing laws should be activated.

Corruption in Nigeria has become so pervasive to the extent that young men and women do not see the essence of doing the right thing or going to school to learn because they see daily how illiterates and half-baked educated ones control billions of naira while the highly educated once conducting research that is contributing to advancement of knowledge and the society are looked at with scorn. In this context, the people can hardly believe and respect their leaders.

Indeed, the commercialization of religion in Nigeria is now a permanent feature of our religious landscape. One can say with some measure of certainty that most of those who profess faith among the Christian and Muslim worshippers are actually faithless. Both the Bible and Qur'an say the fear of God is the begging of wisdom. Donations are taken from followers without caring how the monies were gotten. Religious titles are awarded to the highest bidders while the universities award honorary doctorate degrees to leaders without questioning the moral credentials of the beneficiaries.

The mass media and professional bodies in Nigeria are not helping matters. It appears a number of them are set up with money acquired through corruption and therefore, see nothing wrong in stealing of public fund. Most professional bodies in Nigeria are concerned about how their members could benefit from what goes on in the polity, rather than ask questions on how public officials openly live above their legitimate income. In other clients the mass media and professional bodies serve as the watch dog and whistle blowers against corruption and bad governance. Is high time we investigate the owners of private newspapers, television, and radio stations across the country with a view to ascertain their sources of the funds.

Flowing from the above points, it is clear why the issues of corruption and governance will for long remain an issue of debate in Nigeria. There is also the issue of imperatives of transformational leadership here. Leadership at the government level is therefore seen as the cause and effect of the country's development predicaments. It would appear that once public offices are personalized, leaders tend to distance themselves from the people they ought to serve. In this context, governance essences are ignored as service delivery, transparency and accountability takes the back burner. People engage in corrupt practices and all sort of unethical behaviour to help themselves. How do we break from the cycle in Nigeria? These we shall address in the section that follows.

e) Corruption and Good Governance in Nigeria: The Way Forward

The issue of corruption remains a challenge in the development of any society. In order to successfully combat corruption, there is the need for a mechanism that will drastically transform the culture and legacy of corruption. Positive transformation of Nigeria can only occur through addressing the root causes of corruption and through effective implementation of the legal mechanisms already in place. It is important to note that in spite of the efforts by government at all levels, corruption remains a key concern, and sustainable efforts are required through multifaceted approaches to curb the menace of corruption in order to bring about good governance to the populace.

Corruption has been universally acknowledged as antithetical to any development that can be sustained. Nigeria's experience so far in effective governance validates this statement because it has become clear that to combat and prevent corruption in Nigeria, a multi-faceted approach must be adopted. In order words, for corruption to be combated towards ensuring effective governance and sustainable development, it has to be anchored on a new paradigm that stresses the platform of rule of law, justice, equity, truth, honesty, virtue, and integrity.

Institutions of governance once created take a life of their own. Therefore, deliberate attempts should be made to ensure that these institutions are built on sound ethical values and orientations, their operators should be made to go through and imbibe enduring

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moral training and virtues that can be passed on to future generations in order to guarantee rectitude, transparency and accountability in public service. These can redress the decadence in agencies and organs of government, especially watchdog institutions such as the judiciary, police, and anti-graft bodies.

The establishment of democratic government is an anti-corruption strategy. Theoretically at least, the dispersal of power within the institutions and processes of democratic government should constrain possibilities for venality. The accompanying protection of civil liberties and human rights should make for open and transparent government and provide a check on abuse of power (see Odinkalu, 2010). Competitive politics under-pinned by periodic renewal through elections of the mandate to govern should reward politicians with a credible record of protecting the public resources and interest. Together, these three occurrences – dispersal of power, institutions accountable to government, and competitive electoral politics for periodic renewal of government's mandate – are essential elements of democratic government as an anti-corruption strategy.

In the present era where emphasis is on governance, service delivery, transparency and accountability are the game in town, and everyone need to key into it. As desirous as good governance can be it cannot be brought to bear on leaders by mere slogan. The features of leadership and good governance should be infused into their psyche and made a way of life in the society.

There is need for fear of God, which is the beginning of wisdom. However, in Nigeria, the reverse can be seen as the case, as the high number of places of worship (mosques and churches), has increased the incidence of corruption and bad governance. A peep into the activities of various Pilgrims Welfare Boards and Commissions, both the Christian and Muslim ones, will reveal to a keen observer, that corruption is not even a respecter of religion or faith. The religious groups encourage corruption in different forms. Some preach prosperity without accountability.

The Nigerian masses need to regenerate and restore high ethical standards and patriotism. It is important to state that the responsibility for monitoring the fight against corruption in the service fell on the anti-corruption desk officers in the Ministries, Department and Agencies, who are expected to be resolute and firm in their action. Also, a situation where the national honours list parades a 'rogues' gallery contradicts a genuine commitment to wage war against corruption. There is need to create an environment that will give room to the emergence of a strong civil society for the promotion of transparency, accountability, and responsiveness in governance. The constriction of all loopholes being explored to perpetrate fraud is strongly advocated. Preventive measures have to be scaled up with more proactive accounting and audit controls in government ministries, departments, and parastatals.

The code of Conducts Bureau should utilize e-government in order to publish a list of all public officials who have declared their assets as well as those who have not. This would ensure transparency in the assets declaration process and provide valuable information to whistle blowers such as the media and civil society who in the past lacked access to such information. Whistle blowing and protection for the blowers should be strengthened to nip all the negative devices and tendencies in the bud. There is the need to ensure that the anti-corruption agencies in the country are properly funded and equipped to effectively fight corruption.

The public procurement process in Nigeria is greatly flawed and this is one of the areas in which the government needs to step up its efforts through the training of both state and non-state actors who to date have virtually little or no knowledge in the monitoring process and as such cannot determine if the prescriptions of the Public Procurement Act are duly followed. The Nigerian Government must also ensure that information related to public contracting opportunities and the names of winning bidders are at all times available to the citizenry as this would reduce the conspiracy that has plagued the system.

The present administration should invest anti-corruption crusade with more momentum by making it an ongoing crusade. Also, the crusade must be holistic and all embracing. All tiers or arms of government and the private sector must be carried along. In addition, attempt should be made to introduce and strengthen where they are in existence, government watchdog agencies- anti corruption bureaus like Inspector General, Auditors-General and Ombudsman (government official appointed to receive and investigate complaints made by officials, etc)- which will identify corruption practices and bring them to public attention. Thus, the authorities should look inwards to revive the EFCC by not appointing police officers as EFCC head. There are retired military officers, such as military intelligence officers from the rank of Brigadier-General as well as retired State Security Service (SSS) directors that are intelligent who can be appointed as EFCC head. Thus, Fadahunsi (2013) is of the view that if we continue to make police officers to head the commission, it will be like asking a cat to oversee a pack of meat in a corner.

The media is important in demanding accountability in government through their ability to investigate and expose corrupt acts; hence freedom of press is an important tool in fighting corruption. Independent and free press will also help to combat corruption by working against the notion of the public that corruption is inevitable, and that important people are free from investigation. The media will be used to

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raise public awareness, expose corruption, and will assist to build a coalition to combat corruption (Olowu, 1993:39). The role of the media is critical in promoting good governance and the fight against corruption.

The reforms of the Public/Civil Service should be implemented genuinely instead of the present window dressing policy issues; in this regard, the involvement of the civil society becomes imperative. The Nigeria's value systems that promote corruption go beyond the frontiers of legal normative propositions to the need for socio-cultural normative standards that will correct the existing value systems. Therefore, the civil society's involvement in the anti-corruption crusade must go beyond the formal engagement of government and its officers in effective governance issues into the arena of challenging the cultural practices and values that "communicate" or "facilitate" corrupt practices.

Orientation and re-orientation of leaders and followers alike should be made a continuous exercise. Best values and practices in globe should be internalized in Nigeria and Africa in general. Indeed, it would appear that the problem has often been the gap between words and action. Nigerian leaders should match their words with action. Be stable and consistent in its policies and programmes. Then, the people will believe the government/leaders and follow suit by performing their obligatory and non-obligatory duties and responsibilities. There should be involvement of civil society and citizens in consultations on national policies and at all levels in the planning and delivery of services. Participation must be informed, institutionalized and inclusive. This way we can prevent the corrupt use of funds and make sure that disadvantaged groups are not excluded from the delivery of vital services.

The culture of a society can develops or hinder their development. The perception of corruption as an amoral act stems from the fact that too many Nigerians still see the state an abstraction meant to brutalize and not to cater for the socioeconomic and political well-being of its citizens. This notion can only be jettisoned through effective leadership and good governance. Governments must build checks and balances into different sector's policy and publish flows of money so that, proper monitoring and evaluation can take place. Independent oversight bodies are also needed, but they must have salaried staff with technical expertise and no conflicts of interest.

Corruption has been the focus of considerable attention, hand-wringing and lamentation in and outside Nigeria. Some of the best-known public advocacy and international organizations in the world, including Transparency International - exist to combat it while on the home front we have Independent Corrupt Practice Commission (ICPC) and Economic and Financial Crime Commission (EFCC). We do not claim any special insights on this issue. In addressing the issue of corruption, we propose to reflect our own personal viewpoints and the experiences as Nigerians. Corruption has continued to defy all possible solutions in Nigeria because the cost of corruption is too cheap and the political will to implement anti-corruption laws is absent (Igbokwe-Ibeto & Okoye, 2014). They went further to argue that poorly and inappropriate institutional frameworks are responsible for a significant level of the opportunism that has pervaded the Nigerian state since independence. To North (1990), "institutions are the humanly devised constraints that shape incentives in human exchange, whether political, social, or economic". Institutional change shapes the way societies evolve through time, and hence, is the key to understanding historical change.

It will be difficult to address the problems of corruption and governance in Nigeria in isolation of the rest of Africa. Indeed, leadership failure, corruption and bad governance is not just a Nigerian problem; it is a problem for Africa's for development to which African countries collectively lose an estimated 25 percent of GDP or about $148 Billion annually. Nigeria merely illustrates to scale a problem that every African and indeed developing country also confronts.

Yet, the poor economy of Nigeria must be addressed. There is no gainsaying the fact that there is high rate of poverty in Nigeria. This poverty is linked to so many factors such as lack of employment, underemployment etc. It is a common knowledge that the Nigerian economy has seriously suffered the global economic meltdown which has really adversely affected labour market. This has largely contributed to massive retrenchment at both private and public sectors of the economy. Therefore, as a survival measure, a typical Nigerian has to look elsewhere to meet up with his/her responsibilities. So, when any slight opportunity comes his/her way to embezzle public or private treasury as the case may be, he or she grabs it with both hands.

With effective leadership, eradication, or minimization of corruption to the barest minimum as well as good governance, the Nigerian state will be able to perform the functions of a normal state. In this context, we are referring to the basics of contemporary human existence such as shelter/housing, healthcare, security, food, peace, jobs/employment, education for all, and public transportation.

Also, there should be advocacy for the confiscation of properties of public officials found to be involved in wrongful corrupt acts; death penalty for embezzlement and siphoning of state money abroad; jail sentences without fine option for offenders of corrupt practices and bad governance; cancellation of election results obtained based on rigging and fraudulent acts; disqualification of public officers implicated in election and allied mal-practices; and public disgrace and life jail for corrupt business men and women feeding fat on public fund.

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Also, civil society in Nigeria should be linked both at the level of ideas and practice. As it stands, there is so much individualism in the operations of civil society organizations. For broader reach and positive impact, "civil society organizations working in different sectors such as reproductive rights and health, environment, human rights, youths and so on, need to be encouraged to work together and to develop common platform for intervention and participation in shaping policies. It is not in doubt that Nigeria has a large number of civil society groups, some claim to be anti-corruption bodies. But it seems some of these civil society groups have been infiltrated by corrupt officials. The infighting and the scramble for the spoils of offices or what can be called 'stomach infrastructure' are evident in many of these civil society groups.

VIII. Anti-Corruption initiatives in africa: the National and Regional Experiences

In sharing the African experience in the fight against corruption, it is important to state that there is hardly a country in Africa that has no national policy, institutional and legal frameworks against corrupt practices. There are different types of horizontal and vertical networks measures against corruption at both at national and sub-regional levels, but the challenge has always been implementation and political commitments (Ikubaje, 2018).

There have been different explanations that underscore the establishment of various African anti-corruption partnerships at sub-regional and regional levels. Some of these explanations include the fact that there is a conviction that the fight against corruption will work better if independent states of Africa can provide technical assistance for each other and collaborate against cross boarder crimes and corruption. This conviction among other things made some of the African Regional Economics Communities (RECs), otherwise known as the building blocks in Africa, to embrace first, the fight against corruption, before the African Union. The explanation for the late embracement of anti-corruption fight at the continental level was not unconnected with the fact that the promotion of democratic and good governance was not among the initial objectives of the African Union, when it was Organization for African Unity (OAU). The objectives of the then OAU, amongst other things was to eradicate all forms of colonialism from Africa, promote the unity and solidarity of the AU Member States; promote and intensify their socio-economic and political integration, defend the sovereignty and territorial integrity of Member States, and to jealously guide their political independence. Others include promotion of international co-operation and respect for the United Nations Charter and the Universal Declaration of Human Rights.

The OAU was transformed to AU in 2012. The transformation brought a significant paradigm shift in the work of the African Union as a continental institution charged with promoting democratic principles and good governance in its Member States. Under the African Union Governance Architecture (AGA), there are eight Regional Economic Communities (RECs) and Regional Mechanisms (RMs), within the African continent that are duly recognized. Significant numbers of these RECs have now established their own anti-corruption institutions and/or programmes. The RECs and RMs are the Arab Maghreb Union (UMA); the Economic Community of Great Lakes Countries (CEPGL); the East African Community (EAC); the Economic Community of West African States (ECOWAS); Southern Africa Development Community (SADC); Community of Sahel-Saharan States (CEN-SAD); Central African Economic and Monetary Community (CEMAC); Inter-Government Authority on Development (IGAD); Common Market for Eastern and Southern Africa (COMESA); and the Economic Community of Central Africa States (ECCAS).

Reasonable numbers of these established regional economic communities have substantial legal and institutional initiatives and programmes on anti-corruption for its members. These anti-corruption initiatives were not unconnected with the argument of the international development and financial institutions like the World Bank (WB) and International Monetary Fund (IMF), that effective anti-corruption is an anti-dote to the failure of the Structural Adjustment Programme (SAP) on the African Continent in the 1980s. The Southern Africa Development Community (SADC) was the first Africa Regional Community to adopt a regional anti-corruption legal instrument in August 2001 known as the SADC Protocol on corruption. In addition, SADC has another anti-corruption body known as the Southern African Forum on Corruption (SAFAC). Impressively, countries like Tanzania in East Africa is a member of SAFC and the East African Anti-corruption Authorities (EAAACA) respectively.

Similarly, the Economic Community of West African States (ECOWAS), also found wisdom in regional anti-corruption initiatives and established the ECOWAS Protocol on corruption in December 2001. ECOWAS to her credit, was the first REC to facilitate a formal continental civil society structure on transparency and accountability to campaign against corruption and other related offenses in its Member States. In addition to the ECOWAS Protocol on corruption, it also established an anti-corruption institution known as the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA). GIABA is the ECOWAS institution, responsible for facilitating the adoption and implementation of Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT) in West Africa. Comparatively, in terms of anti-corruption initiatives, both the Southern and West African Regions

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have surpassed other regions on the continent of Africa, although, this does not make all the countries in the two regions ahead of other countries on the continent in terms of anti-corruption performances.

Table 1: Ecowas States in the Lense of Transparency International (2012–2015)

Countries	2015	2014	2013	2012
Cape Verde	55	57	58	60
Ghana	47	48	46	45
Senegal	44	43	41	36
Burkina Faso	38	38	38	38
Benin	37	39	36	36
Liberia	37	37	38	41
Mali	35	32	28	34
Niger	34	35	34	33
Cote D'Ivoire	32	32	27	29
Togo	32	29	29	30
Sierra Leon	29	31	30	31
The Gambia	28	29	28	34
Nigeria	26	27	25	27
Guinea	25	25	24	24
Guinea Bissau	17	19	19	25

Source: Emmanuel Akomaye's Presentation at ECOWAS on trends of Corruption: its effects and challenges to anti-corruption efforts in West Africa, April 2016: cited by John Ikubaje, (2018): The African Union and the Fight against Corruption.

The East Africa Community has also been active in strategizing against corruption in the region. The region has an association known as the East African Anti-Corruption Authorities (EAAACA). It also has a Protocol on Preventing and Combating Corruption. Other initiatives at the regional level include the establishment of regional network of independent ant-corruption bodies.

IX. Analysis of Trends and Policy Implications: African Context

According to John Ikubaje, (2018), corruption remains a serious problem in Africa. The fact that all the members of the African Union do have all the requisite anti-corruption instruments and institutions, they are not effective a expected. In some of the African countries for example, anti-corruption institutions have become instruments of intimidation in the hands of the ruling parties against members of the opposition parties, thereby losing its relevance and usefulness. John, (2018), cited, in some countries, the findings in the in the reports of the national anti-corruption institutions are perpetually kept on the shelves without a follow-up on their implementation. While some countries have good anti-corruption commission, they are neither independent but operates under the control and dictates of the executives.

Majority of the anti-corruption institutions in Africa are under-funded, as another was of rendering these institutions powerless by political actors according to John, (2018). As stated by John, (2018), African governments must put their resources where their mouths are, to help promote the needed development in their countries and the continent. Additionally, integrity checks are mostly absent in the recruitment of anti-corruption workers in some of the African Union Member States, thereby, creating corruption to thrive in the anti-corruption institutions. There is also the political enthusiasm as against political commitment. Political leadership embrace anti-corruption decision but many of them are not committed to the implementation of the decisions, thereby making mockery of their anti-corruption initiatives. For instance, some of the African Union Member States belong to more than one sub-regional anti-corruption bodies, but the multiple membership has little or no impact in the fight against corruption in the affected Member States.

Another serious challenge in the fight against corruption in Africa is impunity and lack of accountability. Sone of the past corrupt African leaders have been left untouched and are allowed to enjoy the loots after their terms in office. Also, the Western countries have not helped anyway in fighting against corruption. Majority of the corrupt African leaders have the proceeds of their corrupt practices stashed in some of the developed countries in Europe and America.

The fight against corruption at the sub-regional and continental levels has little or no impact. In some cases, the anti-corruption at the sub-regional and

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continental levels are seen as policy levels and can only advise the African countries on what should be done to successfully fight against corruption, not minding if actually implemented or not. The decision to heed the given advise is left in the hands of the countries. There has not be sanction of any kind, of the countries that that have refused to comply with the recommendations of these anti-corruption institutions, the more reason the AU-ABC has been tagged a toothless anti-corruption institution. The AU-ABC has not been in position to investigate any anti-corruption case at any level, neither can it sanction any country to the convention. Most often, the activities of the African Union Advisory Board on Corruption have been limited to only organising Board Meetings, where mostly, management of the Secretariat and Board issues discussed. The Board should be active in African countries to evaluate implementation of the Convention and to provide requisite technical assistance to the affected state parties. If the board is to make meaningful impact on anti-corruption, members of the board should be appointed on full time basis and more resources should be committed to the board to carry out its assignments as provided for in article 22 of the Convention on Preventing and Combating Corruption. The African Union Advisory Board should focus more on defining a Continental Strategy for anti-corruption in Africa and the Strategy should also cater for programmes implementation and evaluation.

Some critics of the AU-ABC have argued that the name of the Board is also not helpful. The contends that the name should be African Union Advisory Board on anti-corruption and not on corruption. While this may be important, it has been argued that, if the works of the Board are carried out as enshrined in the Statutes of the Board, the name is likely to be insignificant in term of its impact on anti-corruption in Africa.

In addition, the Board should make a more concerted effort in its advocacy to popularize the Board, its activities, and the usefulness of the Board on good governance and development in Africa. There is need for the Board to be known by majority of Africans due to the impact of its work. Unfortunately, this is not the case. The African Union Advisory Board should coordinate and collaborate with other international and similar organizations with mandate on the fight against corruption in Africa. Thee is also an urgent need for all AU Organs with mandate on anti-corruption to work together under the AGA's Governance Cluster to jointly develop a common anti-corruption strategy for Africa. Partnership between the AU Board on Corruption and the African Association of Independent Anti-Corruption Bodies, the Regional Association of Independent Anti-Corruption Bodies and the Commonwealth Centre on Anti-Corruption is critical.

The African Union Advisory Board on Corruption should also partner with the African Union Specialized Technical Committee Eight, Sub-committee on Public Service and Administration to promote anti-corruption champions at the AU Member States and also at individual levels in Africa. These individual champions would be different from the Board members, and they will work together to combat the menace on the continent of Africa. The Board should prioritise research and training programme. An African Anti-Corruption Centre should be established by the Board to cater for corruption research and training of AU Member States. The content of the training would be determined by the findings emanating from the Board's research work. Also, the AU Member States should prioritise the funding of the Board programmes and activities and they should not be left at the discretion of the international development partners.

An administrative mechanism should be put in place to ensure that the Head of the AU-ABC Secretariat is answerable to the Bureau of the AU-ABC, headed by the Chairperson of the Board. As a continental anti-corruption advisory body, the Board should demonstrate good example to the AU Member States and other public sector institutions in Africa by developing a comprehensive and implementable anti-corruption policy for members and staff of the African Union Advisory Board. A code of conduct, integrity pact and asset declaration forms should be developed and signed by all the Board Members and its staff on a yearly basis, and this should form part of the Board's activities and principles. Furthermore, professional, and competent officials with integrity credential should be recruited to the secretariat of the AU Board on Corruption. Member States of the AU should henceforth prioritise domestication and implementation of the AU Convention on Corruption.

It is important to also indicate that, the AU Convention on Corruption provides for the civil society and the private sector in the fight against corruption. These vertical and horizontal anti-corruption measures should be maximally utilized and all AU Organs with mandate on governance and anti-corruption should team up for the establishment of the African network of Non-State actors Against Corruption in Africa to compliment the effort of the AU-ABC in the fight against corruption in Africa. The Model Anti-Corruption Law that was jointly developed by the UNECA and the Board should not be left in the bookshelves. The Board should be pro-active and engage Member States that need the Model Law for them to use it accordingly in their fight against corruption and other related offences.

According to John, (2018), the international partners and donors' community should bear in mind that a successful fight against corruption in Africa is a pre-condition for impactful development intervention in the continent. To some donors, anti-corruption is not a priority, which is seen as a serious mistake.

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'Donor intervention in development promotion can be likened to water that is being poured constantly in a basket, which the water is the resources (financial and human) that are being poured in the basket to promote peace, socio-economic and political development. The basket is the environment or country where the support is being carries out. The holes in the basket, that prevents the basket from holding ton the water is corruption. For the water to stay and make impacts in the basket, the holes must be blocked. Here, corruption is a hole in the basket of development intervention'. John, (2018).

While the international development partners in Africa have done a lot to promote peace, security, health, and education, amongst others, these supports cannot be sustainably retained until the corruption is fully confronted. It is on this note that all development partners working in Africa must incorporate anti-corruption in their programmes to confront corruption in the continent.

Finally, a critical analysis of activities that have been outlines, over the years have failed to incorporate sustainable interventions that will stand the test of time in the fight against corruption in Africa. Majority of the outlines activities over the years, are one-off interventions and are not in anyway promote sustainable anti-corruption strategies that will bring about an enduring socio-economic and political transformation in Africa.

X. Conclusion

Corruption is like a cankerworm that easily eats deep into the social and moral fabric of any society or nation. Incidentally, corrupt practices sometimes take place in such a subtle and insidious manner that they may be unnoticed for a long time after they must have taken deep roots. That is why individuals should constantly be on guard in the course of social, business, or political transactions by noting and clarifying uncertain nuances and in particular, making "scepticism" their watch word.

That corruption is a serious menace to effective democratic governance and sustainable development is an understatement. Indeed, corruption is a major factor responsible for the nation's comatose state of underdevelopment despite the abundant wealth. It is the reason why policy makers with executive immunity divert scarce public resources to uneconomic high-profile projects that are detrimental to the provision of simple basic and highly essential projects like investment in education, health and other infrastructures such as good roads, portable water and power supply. The resultant consequences include an impoverished economy with enormous negative impact on the poor. Indeed, because of corruption, the citizens have lost trust in the political system, its institutions and leadership hence the violent clashes and litigations that usually trail election results (Abdulahi, et al, 2012:248).

There is no doubt that good governance in Nigeria has been stagnant due to bureaucratic, political, and electoral corruption and this article has shown that these three types of corruption greatly affect good governance. The conclusion then is that corruption in Nigeria can only be tackled through a systemic approach.

In sum, we have dwelt extensively on the issues of corruption and governance in Nigeria as captured by scholars and social commentators with an attempt at clarifying the intellectual "cobweb" surrounding corruption and governance and the challenges. In addition, searchlight was also beamed on the theoretical framework for a better understanding of the concepts under interrogation. Thus, different theories on the concept of corruption and governance have been espoused as postulated by scholars. An attempt has also been made to establish the interface between Leadership, Corruption, Governance, and development in Nigeria. Leadership deficit, corruption and bad governance have been an endemic disease, which affects the growth and survival of the Nigerian state and Africa as a continent. For the avoidance of doubt, it has been established that corruption can ruin a nation. Corruption undermines democracy and good governance by flouting or even subverting formal processes, reduces accountability and distorts representation in policy making. More generally, corruption erodes the institutional capacity of government as procedures are disregarded, resources are siphoned off, and public offices are bought and sold. The United Nation Human Development Index (HDI, 2011) has put the poverty level of Nigeria to be about 64.7% and as such, majority of the Nigerian population are said to be living under abject poverty.

It is the position of the paper that the most daunting challenges militating against Nigeria and Africa's quest for transformation appears to be seemingly untameable corruption and bad governance. Based on these, we have made some recommendations that if religious followed and adhered to, could resolve the hydra headed leadership, corruption, and catalogue of bad governance problems in Nigeria.

Finally, the paper highlighted a number of challenges which have varied implications on the quest to resolve the transformation question in Nigeria. One of such implication is that, until Nigerian leaders begin to think Nigeria and begin to 'plant trees' whose shades they know they shall never seat in, the quest for good governance and efficacious leadership that could fight corruption and engender sustainable socio-economic and political development will for long remain a mirage.

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Electoral Democracy and Political Entrepreneurship in Nigeria: Exploring the Social Media Option

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Keywords: political networks, authoritarian populism, machine politics, self-worth electioneering, membership and candidate recruitment.

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Electoral Democracy and Political Entrepreneurship in Nigeria: Exploring the Social Media Option

Amobi P. Chiamogu [α], Uchechukwu P. Chiamogu [σ], Agary N Nwokoye [ρ] & Emeka Odikpo [ω]

Abstract- The conduct of regular elections by authoritarian populist regimes has engendered the advent of elections without democracies and democracies without rights and peoples' participation. The unwillingness of the elites and the powerful, who have taken hold of the political system, to cede to the views of the people is increasingly making the government unresponsive. The political system is fast turning into a playground for billionaires with very high propensity to exclude the people from the scheme of affairs. Political parties are getting frozen by populist leaders who are using their positions to destroy free media, undermine independent institutions, and muzzle the opposition. Individual and minority rights as well as popular will are no longer guaranteed. Citizens are thus disillusioned with politics; have grown restless, angry, disdainful and hostile to the resultant *democrazy*. This paper therefore analyzed the collapsing party prowess in membership and candidate recruitments that have pushed politicians on self-worth electioneering, political merchandising and entrepreneurship in their search for relevance. It further examines the vertical linkages between political parties and electorates as complemented by horizontal connection between parties and private contributors. The paper thus observed that Political entrepreneurship has become both an art and craft for evolving vents and clichés for endearing and repositioning relevance in elections and electioneering in Nigeria. The paper uses secondary sources of data knitted in in-depth review of related literature to polemically analyze through the spectrum of the theory of political clientelism built around reciprocity of machine politics where exchanges rely significantly on clients' feelings of obligation to return favours to their patrons to explain the evolving trend of political entrepreneurship in Nigeria where perspective minds are using technologically driven platforms to close latent gaps created by freezing political parties in mobilization, membership and candidate recruitment.

Keywords: political networks, authoritarian populism, machine politics, self-worth electioneering, membership and candidate recruitment.

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I. Introduction

A final change in information communications technologies (ICTs) has conquered the whole wide world in the span of a few short decades (Mounk, 2018). Until recently, the costs associated with running traditional media houses (printing newspapers, running radio stations, or operating television networks) were prohibitive for most citizens. Mass communication was the exclusive preserve of political and financial elites, thus marginalizing extreme views and making politics comparatively consensual. Interestingly, contemporary advancements in information communication technologies (ICTs) generating unmitigated access to the internet and availability of multiple information technology (IT) devices, particularly of overarching social media, have rapidly shifted the power balance between "political insiders and political outsiders" (Mounk, 2018). Today, the costs of organizing political events/rallies have plummeted with greatly permissive and relatively affordable virtual resources. In Nigeria, the hitherto suppressed citizens have gained undue and hard to limit space for expression of extreme and marginalized views. The government is apprehensive of demands for accountability from social media platforms. Any citizen is able to share at little or no cost viral information with millions of people at great speed. A new socio-political order has been created where politicians and political entrepreneurs are grappling with the challenges of pseudo-democracy or illiberal populism. The electoral process is mortgaged by the political leadership to ensure guaranteed results in political recruitment. Institutional guarantees of democracy are getting destroyed by autocratizing forces within the government that watches over the conduct of regular elections. It thus has been elections without democracies and democracies without rights such that might masked in wealth and abuse of political power have continued to prevail. Elections are at the mercies of those who can access power brokers laced with state apparatuses and unregulated influence thereby resulting in poor nauseating citizens' participation. Nigerians are currently in extraordinary times where the basic contours of politics, democracy and society are being renegotiated in varied fronts. Political participation and followership is lost to individual values and worth. Crafty,

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dexterous and smart political entrepreneurs are thus moving outside the box by creating foundations and social networks funded with personal/individual, cartel monies, interventions and resources from those around the corridors of power to oil and shape political structures while deciding the tone of relevance in the wake of technology mixed with excess money for politics.

Invariably, Nigerian politics and administration have degenerated into a gimmick for political office holders and billionaires who have very high propensity to exclude the people from the scheme of affairs. Political leaders, parties and patrons including aspirants to public offices are devising strategies for engaging and getting the electorates through machine politics to support and vote for them in (s) elections. The alienated citizens are getting engaged in *qui-pro-quo* exchanges for electoral support by provision of jobs, undue assistance that would have been better allocated evenly for socio-economic development. The above situation illustrates realizations of collapsing party prowess in membership and candidate recruitment that elicits genuine followership from the electorates by the political elites. The study therefore seeks to analyze the nature of self-worth electioneering, political merchandising and entrepreneurship embarked upon by Nigerian political leaders, collapsing parties, financiers/brokers, dexterous and crafty politicians for political relevance. It further reassess the vertical linkages between political parties and electorates as complemented by horizontal connection between parties and private contributors that give rise to strategic political brokers who generate, oil and deploy political networks for electoral purposes. The study also explores adaptation and deployment of social media platforms as a sustainable network for political entrepreneurship in Nigeria.

II. Literature Review and Theoretical Exposition

a) *Electoral Democracy*

Call it electoral or liberal democracy, the fact remains that dramatic global waves of democratization endeared democracy to most societies as the best form of government but did not develop democratic culture in many claimant states hence the multifarious perceptions about principles and practices (Huntington, 1991; Rubinstein & Roznai, 2018; Obikeze, Obiora & Chiamogu, 2019). Democratic rules and procedures are described in many ways suiting societies and peoples. It again explains why in recent years democracy has been in recession. Democracy according to International IDEA (2016) is "in a state of unending crisis and there will always be a struggle to find better forms of representation and accountability". Democracy has in many instances and societies reduced to elections and representations in government. Since Schumpeter (1976, p.269) defined democracy as a system "for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote", the electoral criterion has been the conceptual anchor of democracy. Electoral democracy epitomizes what the minimalist perspective describes as a situation where positions of political power are filled through regular, free, and fair elections between competing parties, and an incumbent government to be turned out of office through elections (Freedom House, 2007). The practice of democracy according to Coppedge (2005) has in contemporary times been measured along the path of minimalist (thin) and thick perceptions. The thin conception corresponds closely with Dahl (1971) concept of polyarchy with eight components, or institutional requirements that include the following:

(a) Adult citizens have the right to vote;
(b) Adult citizens are eligible for public office;
(c) Political office seekers are free to canvass for votes/support;
(d) Conduct of free and fair elections;
(e) Citizens are free to join political parties as members;
(f) Citizens have and enjoy freedom of expression especially on political issues;
(g) The opposition and criticism are allowed and protected by law; and
(h) Government policies depend on votes and other expressions of preference.

Those electoral criteria state that democracy is a form of government that does not just hold contested elections but define the character of the electoral contest to ensure mass participation through competitive political parties. How this works in Nigeria is a rationale for the collapse of political parties or if you like the destruction of democratic institutions which are fast defining electoral participation. In Nigeria, electoral competition and opposition are getting grossly suppressed in what Schmitter & Karl (1991) referred to as fallacy of electoralism. Elections have continued to receive priority over other dimensions of democracy as clearly enunciated by the maximalist theorists.

b) *Political Entrepreneurship*

According to Holcombe (2002, p.143), "political entrepreneurship occurs when an individual acts on a political profit opportunity". For Carpio (2017), "political entrepreneurs are people who create ideas and innovations, and act as new leaders in the field of politics". They are individuals and groups who seek to improve the science and art of politics through disruption, innovation and evolution of new approaches to politicking. The founders of movements such as the Chartists and Suffragettes, Capitalists and Marxists, Futurists and Luddites were all political entrepreneurs. In Nigeria, the overt inability of political parties to galvanize,

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articulate and aggregate interests with clear-cut programmes and ideologies merged with unmitigated intraparty conflicts has created groups with deep rooted divisions as political associations where membership and candidate recruitment are grossly inefficient. Everybody is for and against the political parties and no nobody is a staunch member. Access and tendencies to fasten realization of personal interests determine membership of political parties in a society where citizens wield cards of various parties at the same time. Political entrepreneurs explore and exploit nuanced avenues to find placements for themselves, their candidates and political parties as the only legitimate framework for electoral participation. They create, oil and promote groups both physical and virtual to the advantage of their clients and ready brokers where votes are bought and sold. Political entrepreneurship therefore is the art and craft of creating, sustaining and using informal platforms for electoral mobilization and participation. Dexterous, innovative and technology savvy politicians create, oil and fund these structures for electoral purposes.

There are avalanche of such structures, groups, movements and umbrella bodies around communities, electoral wards, states and geopolitical zones. The existence and activities of such socio-cultural groups and platforms as Ohaneze Ndi-Igbo, Afenifere, Arewa Youth Assembly, National Youth Council of Nigeria, Ijaw Youth Council, Movement for the Emancipation of the Niger Delta (MEND), United Anambra Youth Assembly (U-AYA), Egbesu amongst others speak volumes in describing the dynamics of politicking in the polarized Nigerian state. These groups endorse and promote the candidacies of their children in national elections and fan embers of sectionalism. They constitute unimaginable fora for charting unexplored courses where political brokers, godfathers and mothers exploit to garner endorsement that facilitate electoral malpractice. Votes are easily bought and sold in places where the electorate are not staunch supporters of opposition and will not stand to defend their preferences. The electorates mortgage their conscience over unresponsive government subsumed in flawed electoral processes where they feel that their votes are not likely to count.

III. Theoretical Framework

The paper adopted political clientelism as its theoretical framework of analysis. Political clientelism refers to the practice of providing personal favours that could take the form of jobs, contracts, welfare support, money, and other kinds to members of the electorate in exchange for electoral support. Scholars traditionally defined the theory as the distribution of selective benefits to individuals or groups in exchange for political support (Katz, 1985; Hopkin, 2001; Kitschelt & Wilkinson, 2007). Hopkin (2006) qualified clientelism as a form of personal, dyadic exchange that is marked by a sense of obligation. The sense of obligation here refers to the drive to reciprocate the favour by way of granting electoral support. By dyadic exchange as an element of clientelism, Hicken (2011) observed that there must be direct, face-to-face interactions and transactions between the patron and client. Discussing clientelism as a method of electoral mobilization, Stokes (2013, p. 649) succinctly declares that it is "the proffering of material goods in return for electoral support, where the criterion of distribution that the patron uses is simply: did you (will you) support me?" In our context where there is poverty of leadership and governance challenges, resources distribution and allocations are grossly lopsided resulting in widespread poverty and massive unemployment. Extending personal favours ranging from payment of school fees for student members of a constituency, attendance and support for wedding parties and burial ceremonies/rites, sinking of boreholes and extending electricity to communities by patrons and brokers using state resources cornered unto private foundations became critical. It could come in the form of discretionary provision of privileges by government representatives, political parties and prospective contestants of public positions of trust to members of the electorates, political wards and or group of persons in anticipated exchange for their votes. This privilege or favour is gifted in contingent reciprocity of political support. The privilege could as well come in the form of pork-barrel programme from the government which shares a lot of similarities with clientelism. For Hicken (2011), clientelism describes unbalanced relationships between political patrons, brokers and clients. Where the patrons and brokers refer to the political financiers and godfathers, the electorates constitute the clients. The proponents of this theory include Alex Weingrod (1968), James Scott (1969; 1972), Sidney Tarrow (1967), Rene Lemarchand and Keith Legg (1972), Carl Landé (1977), Mario Caciagli and Frank Belloni (1979; 1981), Parisi Arturo and Gianfranco Pasquino (1979), Richard Katz (1985), Simona Piattoni (2001), Jonathan Hopkin, (2001; 2006), Herbert Kitschelt and Steven L. Wilkinson (2009), Allen Hicken (2011), Susan Stokes (2013), etc.

According to Scott (1969) as cited in Stokes (2013), the relationships between political patrons, brokers and clients constitute influential familiarity in which the patron provides protection or benefits, or both, for clients who in turn, reciprocate by offering political support and assistance to the patron in elections. Initially considered a pre-modern approach, contemporary democratization process in Nigeria, is making political clientelism pervasive. At the wake of poor governance subsumed in massive electoral apathy and withdrawal by the people from the sit-tight political leaders, Berenschot (2018) observed that political

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clientelism as "a means of electoral mobilization underlies a host of developmental challenges from corruption and inadequate public service provision to ethnic violence and a weak rule of law". Clientelism as a political theory is heightened by the pervasiveness of vote-trading in emergent but fledgling democracies where the government is not delivering the expected democracy dividends. Clientelism which is a *quid-pro-quo* kind of politicking and electioneering campaign automatically renegotiates political support from impoverished electorates who tend to accept and waiver on the platter of a bird at hand. People hold onto the gifts in expectation for never coming deliverables from political brokers. It makes people accept the candidacy and aspiration of entrepreneurial politicians by granting them political supports.

IV. Electoral Democracy and Political Entrepreneurship in Nigeria: Tracing the Nexus

The Nigerian state is facing daunting challenges in its system of governance and administration such that political institutions are witnessing coping problems. Democracy is witnessing crises of political representation and accountability (Witter & de Vries, 2013). Citizens are deserting the political arena with rising trends of low electoral turnout, increasing volatility, and imminent collapse of political party and party systems. Clearly, the fourth industrial revolution is geometrically changing and shifting cultures, work and politics (Carpio, 2017). Exponential advancements in information and communication technologies (ICTs) are overarchingly opening up and disrupting socio-economic and political norms with political actors being in a hurry to find, anchor and sustain placement for themselves, their groups and sometimes for the society with a bid to remain politically relevant. Nigeria has witnessed a rising tide of contentious elections ending in heated debates, court challenges, protests and legitimacy crises. In other words, conduct of elections and electioneering have triggered bloodshed, destruction, and undermined the capacity for stable governance, political inclusion, and national integration. This is mainly because of the zero-sum nature of politics leading to bitter tumultuous elections laid bare by divisions within parties which is commonly propelled by the predatory character of its ruling class.

The continued evolving political environment of states where democracy is facing crises of consolidation with authoritarian populists harping on regular elections while destroying the real institutional guarantees of democracy are generating concerns for systemic analysis. As aptly captured by Lentsch (2018), liberal democracies are in crisis in states where the political leadership is wielding excessive powers. Today, it is difficult if not impossible to make definitive statements about politics. Politics has developed unguarded wings and indefinite tentacles that are going beyond traditional wits. Apt comprehension and forecasting are time, state and regime specific thereby making general statements fallacious and in some contexts incongruent. In Nigeria, the state is captured and operates in the hands and guide of political leaders (within the presidency) with minimal attention to the will of the people (Anazodo, Igbokwe-Ibeto & Nkah, 2015). Even when Diamond (2020) did not accept that Nigeria has attained the status of a liberal democracy, we assume that having conducted several elections since the beginning of the fourth republic that Nigeria can as well pass for one of the status as advanced by Schumpeter (1976; 2000). At that, the introduction and implementation of novel and innovative socio-political engineering becomes a central question of political analysis. No wonder, Year On Team (2013) observed that "we are living in an exciting time of expansive digital and social frontiers, where old paradigms and beliefs are crumbling under the weight of parasitic systems and corruption, giving rise to intelligent tribes searching for new answers and constructs". Political entrepreneurship has widespread spectrum with unimaginable potentials. Perspective individuals and organizations are now developing new group dynamics and citizen engagement to reinventing political leadership structures, breaking down ideological divides, evolving innovative advocacy tools and technology, trying more effective methods of social organization, changing cultural perceptions and perhaps most importantly citizenry empowerment to adapt structures, vents and clichés for power struggle and consolidation where political parties are becoming less relevant. They create new frameworks and tools for more effective political mobilization, support and grounds for easy rallies and seamless channels for profit maximization. Most Nigerian political entrepreneurs are not interested in effective leadership and communication but in creating viable business models for merchandizing political support and patronage. They build platforms to make money and garner relevance. Astuteness in political entrepreneurship is a function of apt identification of political problem situations and the ability to determine possible working solution to the problem situation. In Nigeria, one of the most ravaging problems of liberal or electoral democracy is the collapsing political party prowess in the recruitment of members and candidates for elections which have given rise to unprecedented withdrawal of citizens concerns to parties but to individuals. Votes are cast for candidates and not political parties in contemporary Nigerian elections. Politicians opting for elections today win and lose on the basis of self-worth and personality merged with state action. Ruling parties with apparatuses of state force and machinery, do influence election outcomes but votes cast are candidate specific and oriented. Knowing that Nigerian political parties are without clear cut ideologies and manifestoes, it is easy

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to observe that votes are given to candidates with greatest pay packages. The 2019 Anambra South Senatorial District election where Senator Ifeanyi Ubah of the Young Progressive Party (YPP) without structures defeated candidates of All Progressives Grand Alliance (APGA) and the People's Democratic Party (PDP) draws the points closer home.

The vertical and horizontal relationships between political parties and political power brokers are fast collapsing in an era of mistrust between the duo. There is trust deficit between party financiers/brokers and party candidates owing to established informal protocol breach between Dr. Chris Ngige and Chief Chris Uba in Anambra state among others. Getting political godsons to stick to terms of engagement in contemporary Nigerian politicking has become problematic. If the political leadership (those wielding executive powers) did not endorse a candidate, he must go through the crucible to fare well in elections. He solely depends on his individual worth to achieve electoral success and not party structures. Billionaire candidates are fast taking over the system with uncouth wealth through the activities and programmes of pseudo political foundations. The new political normal is that aspirants to public positions start with charity bodies to achieve popularity. They have all come to the realization that the party has failed and that the electorates have withdrawn from the government due to long period of irresponsiveness and bad leadership. The emergent approach by political entrepreneurs involves savouring their paths with personal and or groups largesse to communities and sections of the constituencies to garner political support. Prospective aspirants now provide public infrastructures such as roads, hospitals, and empowerment programmes in order to earn the people's support during elections. This explains why even legislators scamper for projects to salvage their prospects of returning to the hallowed chambers. Thence, the real imports of the phrase "attracted and facilitated" that follow government projects today. Members of the State and National Assemblies aspiring to remain relevant move around offices in ministries and departments (MDAs) in search of job opportunities and projects to facilitate to earn the phrase on project signboards.

V. Exploring the Social media Option for Political Entrepreneurship in Nigeria

Equally seeking relevance, dexterous and crafty politicians, who are not that wealthy, chart courses in the use of technology. ICTs has overwhelmingly changed the tone and pattern of politics especially in structure building and mobilization. Where parties are relapsing, individuals' networks and self worth are becoming paramount. Political entrepreneurs are becoming innovative with the use of ICTs to garner structures and memberships that can easily be mobilized. They build, promote and oil these members as ready hands for negotiating support for willing politicians who can foot their bills. The structures are their political investments whose access could go to those that can afford it.

With very high internet penetration in Nigeria and unassuming increment in the number of social media users, the chances of deploring and directly engaging the electorates in groups have become latent options. Nigerians use more of such social media platforms that have messengers where they easily get added or join group chats and follow notable personalities and celebrities. Political entrepreneurs explore social media chat groups such as those from States, Senatorial Districts, Federal Constituencies, State Constituencies, Local Government Areas, Clans, Town Union, Wards, Communities, Villages, Families, Party Groups, Professional Associations, Labour Unions, Alumni Chat Groups, Social Clubs, Big Cities' chat groups to build their political platforms. They also engage field workers to obtain direct phone contacts of registered voters from electoral wards to build their data bases from where they reach the electorates. Many social media users get added to groups without their permission and the need for connections and information push them to remain members of such groups. These coupled with overwhelming poverty, push many citizens to continue with groups where the entrepreneurs get to make stipends available to them and make promises of doing more. He periodically engages them in virtual and physical meetings where they part with foodstuff, clothing materials and information on state of the nation. He develops direct relations and gets to attend social events such as burial, wedding and other ceremonies thereby endearing himself to the members.

Everybody likes recognition and getting to be identified with in times of need especially in moments of grief. Members of this groups have shared responsibility of promoting its ideals and marketing its prospective candidates. The promoters of these groups also favour unemployed members with jobs and contracts to oil the group. A typical example of these groups is found in United Anambra Youth Assembly (U-AYA), Ifeanyi Ubah Youth Organization, Soludo Campaign Organization, etc. At the level of social media, promoters build and nurture groups as political structures that are easily mobilized for elections. They easily market their views and candidates at minimal costs using these social media groups. Members of such groups propagate their views and programmes consciously and subconsciously by discussing and sharing such views with other social media users.

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VI. Concluding Remarks

Social media has become the engine of communication in contemporary Nigeria. It has given way to new modes of relationships and interactions where people build networks with persons that they do not know but have new media presence. It creates platforms for simultaneous and instant messaging and reaching out to people at very little or no costs and has revolutionized media landscape. Social media thus offers a variety of avenues through which political candidates can communicate with people. It has been widely used by politicians to create awareness and mobilize supporters. Social media sites offer connections and networks for political entrepreneurs to reach, keep in touch, feel the pulse of the electorates and mobilize communities for electoral purposes.

Social media platforms thus provide sustainable latitude for advancing electoral participation and consolidating democracy in Nigeria. Social media represents a veritable avenue for political change by socializing citizens into the political beliefs required for democratic citizenship, and thereby promoting liberal democracy. It facilitates online communities chat groups created by political entrepreneurs for members, readers, listeners and viewers to discuss issues, have their voices heard, and get feedback in record time. The fact that social media is a supportive avenue for sharing views and opinions and discussing political life in the country implies that the social media can play an important role in deepening democracy. Social media therefore is a plausible option for political mobilization and participation in Nigeria.

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Introduction

FSSRC/ASSRC is the most prestigious membership of Global Journals accredited by Open Association of Research Society, U.S.A (OARS). The credentials of Fellow and Associate designations signify that the researcher has gained the knowledge of the fundamental and high-level concepts, and is a subject matter expert, proficient in an expertise course covering the professional code of conduct, and follows recognized standards of practice. The credentials are designated only to the researchers, scientists, and professionals that have been selected by a rigorous process by our Editorial Board and Management Board.

Associates of FSSRC/ASSRC are scientists and researchers from around the world are working on projects/researches that have huge potentials. Members support Global Journals' mission to advance technology for humanity and the profession.

FSSRC

Fellow of Social Science Research Council

FELLOW OF SOCIAL SCIENCE RESEARCH COUNCIL is the most prestigious membership of Global Journals. It is an award and membership granted to individuals that the Open Association of Research Society judges to have made a 'substantial contribution to the improvement of computer science, technology, and electronics engineering.

The primary objective is to recognize the leaders in research and scientific fields of the current era with a global perspective and to create a channel between them and other researchers for better exposure and knowledge sharing. Members are most eminent scientists, engineers, and technologists from all across the world. Fellows are elected for life through a peer review process on the basis of excellence in the respective domain. There is no limit on the number of new nominations made in any year. Each year, the Open Association of Research Society elect up to 12 new Fellow Members.

Benefit

To the institution

Get letter of appreciation

Global Journals sends a letter of appreciation of author to the Dean or CEO of the University or Company of which author is a part, signed by editor in chief or chief author.



Exclusive Network

Get access to a closed network

A FSSRC member gets access to a closed network of Tier 1 researchers and scientists with direct communication channel through our website. Fellows can reach out to other members or researchers directly. They should also be open to reaching out by other.

Career | Credibility | Exclusive | Reputation



Certificate

Certificate, LOR and Laser-Momento

Fellows receive a printed copy of a certificate signed by our Chief Author that may be used for academic purposes and a personal recommendation letter to the dean of member's university.

Career | Credibility | Exclusive | Reputation



Designation

Get honored title of membership

Fellows can use the honored title of membership. The “FSSRC” is an honored title which is accorded to a person’s name viz. Dr. John E. Hall, Ph.D., FSSRC or William Walldroff, M.S., FSSRC.

Career | Credibility | Exclusive | Reputation

Recognition on the Platform

Better visibility and citation

All the Fellow members of FSSRC get a badge of "Leading Member of Global Journals" on the Research Community that distinguishes them from others. Additionally, the profile is also partially maintained by our team for better visibility and citation. All fellows get a dedicated page on the website with their biography.

Career | Credibility | Reputation

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Future Work

Get discounts on the future publications

Fellows receive discounts on future publications with Global Journals up to 60%. Through our recommendation programs, members also receive discounts on publications made with OARS affiliated organizations.

Career | Financial



GJ Account

Unlimited forward of Emails

Fellows get secure and fast GJ work emails with unlimited forward of emails that they may use them as their primary email. For example,
john [AT] globaljournals [DOT] org.

Career | Credibility | Reputation



Premium Tools

Access to all the premium tools

To take future researches to the zenith, fellows receive access to all the premium tools that Global Journals have to offer along with the partnership with some of the best marketing leading tools out there.

Financial

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Organize seminar/conference

Fellows are authorized to organize symposium/seminar/conference on behalf of Global Journal Incorporation (USA). They can also participate in the same organized by another institution as representative of Global Journal. In both the cases, it is mandatory for him to discuss with us and obtain our consent. Additionally, they get free research conferences (and others) alerts.

Career | Credibility | Financial

Early Invitations

Early invitations to all the symposiums, seminars, conferences

All fellows receive the early invitations to all the symposiums, seminars, conferences and webinars hosted by Global Journals in their subject.

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Get a remuneration of 15% of author fees

Fellow members are eligible to join as a paid peer reviewer at Global Journals Incorporation (USA) and can get a remuneration of 15% of author fees, taken from the author of a respective paper.

Financial

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Fellows may join as a member of the Editorial Board of Global Journals Incorporation (USA) after successful completion of three years as Fellow and as Peer Reviewer. Additionally, Fellows get a chance to nominate other members for Editorial Board.

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And Much More

Get access to scientific museums and observatories across the globe

All members get access to 5 selected scientific museums and observatories across the globe. All researches published with Global Journals will be kept under deep archival facilities across regions for future protections and disaster recovery. They get 10 GB free secure cloud access for storing research files.

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ASSRC

ASSOCIATE OF SOCIAL SCIENCE RESEARCH COUNCIL

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The primary objective is to recognize the leaders in research and scientific fields of the current era with a global perspective and to create a channel between them and other researchers for better exposure and knowledge sharing. Members are most eminent scientists, engineers, and technologists from all across the world. Associate membership can later be promoted to Fellow Membership. Associates are elected for life through a peer review process on the basis of excellence in the respective domain. There is no limit on the number of new nominations made in any year. Each year, the Open Association of Research Society elect up to 12 new Associate Members.

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Career | Credibility | Exclusive | Reputation



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Earn 60% of sales proceeds

Associates can publish articles (limited) without any fees. Also, they can earn up to 30-40% of sales proceeds from the sale of reference/review books/literature/publishing of research paper.

Exclusive | Financial

Reviewers

Get a remuneration of 15% of author fees

Associate members are eligible to join as a paid peer reviewer at Global Journals Incorporation (USA) and can get a remuneration of 15% of author fees, taken from the author of a respective paper.

Financial

And Much More

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All members get access to 2 selected scientific museums and observatories across the globe. All researches published with Global Journals will be kept under deep archival facilities across regions for future protections and disaster recovery. They get 5 GB free secure cloud access for storing research files.

Associate	Fellow	Research Group	Basic
$4800 **lifetime designation**	$6800 **lifetime designation**	$12500.00 **organizational**	APC **per article**
Certificate, LoR and Momento **2** discounted publishing/year **Gradation** of Research **10** research contacts/day **1 GB** Cloud Storage **GJ** Community Access	**Certificate,** LoR and Momento **Unlimited** discounted publishing/year **Gradation** of Research **Unlimited** research contacts/day **5 GB** Cloud Storage **Online Presense** Assistance **GJ** Community Access	**Certificates,** LoRs and Momentos **Unlimited** free publishing/year **Gradation** of Research **Unlimited** research contacts/day **Unlimited** Cloud Storage **Online Presense** Assistance **GJ** Community Access	**GJ** Community Access

Preferred Author Guidelines

We accept the manuscript submissions in any standard (generic) format.

We typeset manuscripts using advanced typesetting tools like Adobe In Design, CorelDraw, TeXnicCenter, and TeXStudio. We usually recommend authors submit their research using any standard format they are comfortable with, and let Global Journals do the rest.

Alternatively, you can download our basic template from https://globaljournals.org/Template.zip

Authors should submit their complete paper/article, including text illustrations, graphics, conclusions, artwork, and tables. Authors who are not able to submit manuscript using the form above can email the manuscript department at submit@globaljournals.org or get in touch with chiefeditor@globaljournals.org if they wish to send the abstract before submission.

Before and during Submission

Authors must ensure the information provided during the submission of a paper is authentic. Please go through the following checklist before submitting:

1. Authors must go through the complete author guideline and understand and *agree to Global Journals' ethics and code of conduct,* along with author responsibilities.
2. Authors must accept the privacy policy, terms, and conditions of Global Journals.
3. Ensure corresponding author's email address and postal address are accurate and reachable.
4. Manuscript to be submitted must include keywords, an abstract, a paper title, co-author(s') names and details (email address, name, phone number, and institution), figures and illustrations in vector format including appropriate captions, tables, including titles and footnotes, a conclusion, results, acknowledgments and references.
5. Authors should submit paper in a ZIP archive if any supplementary files are required along with the paper.
6. Proper permissions must be acquired for the use of any copyrighted material.
7. Manuscript submitted *must not have been submitted or published elsewhere* and all authors must be aware of the submission.

Declaration of Conflicts of Interest

It is required for authors to declare all financial, institutional, and personal relationships with other individuals and organizations that could influence (bias) their research.

Policy on Plagiarism

Plagiarism is not acceptable in Global Journals submissions at all.

Plagiarized content will not be considered for publication. We reserve the right to inform authors' institutions about plagiarism detected either before or after publication. If plagiarism is identified, we will follow COPE guidelines:

Authors are solely responsible for all the plagiarism that is found. The author must not fabricate, falsify or plagiarize existing research data. The following, if copied, will be considered plagiarism:

- Words (language)
- Ideas
- Findings
- Writings
- Diagrams
- Graphs
- Illustrations
- Lectures

- Printed material
- Graphic representations
- Computer programs
- Electronic material
- Any other original work

Authorship Policies

Global Journals follows the definition of authorship set up by the Open Association of Research Society, USA. According to its guidelines, authorship criteria must be based on:

1. Substantial contributions to the conception and acquisition of data, analysis, and interpretation of findings.
2. Drafting the paper and revising it critically regarding important academic content.
3. Final approval of the version of the paper to be published.

Changes in Authorship

The corresponding author should mention the name and complete details of all co-authors during submission and in manuscript. We support addition, rearrangement, manipulation, and deletions in authors list till the early view publication of the journal. We expect that corresponding author will notify all co-authors of submission. We follow COPE guidelines for changes in authorship.

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During submission of the manuscript, the author is confirming an exclusive license agreement with Global Journals which gives Global Journals the authority to reproduce, reuse, and republish authors' research. We also believe in flexible copyright terms where copyright may remain with authors/employers/institutions as well. Contact your editor after acceptance to choose your copyright policy. You may follow this form for copyright transfers.

Appealing Decisions

Unless specified in the notification, the Editorial Board's decision on publication of the paper is final and cannot be appealed before making the major change in the manuscript.

Acknowledgments

Contributors to the research other than authors credited should be mentioned in Acknowledgments. The source of funding for the research can be included. Suppliers of resources may be mentioned along with their addresses.

Declaration of funding sources

Global Journals is in partnership with various universities, laboratories, and other institutions worldwide in the research domain. Authors are requested to disclose their source of funding during every stage of their research, such as making analysis, performing laboratory operations, computing data, and using institutional resources, from writing an article to its submission. This will also help authors to get reimbursements by requesting an open access publication letter from Global Journals and submitting to the respective funding source.

Preparing your Manuscript

Authors can submit papers and articles in an acceptable file format: MS Word (doc, docx), LaTeX (.tex, .zip or .rar including all of your files), Adobe PDF (.pdf), rich text format (.rtf), simple text document (.txt), Open Document Text (.odt), and Apple Pages (.pages). Our professional layout editors will format the entire paper according to our official guidelines. This is one of the highlights of publishing with Global Journals—authors should not be concerned about the formatting of their paper. Global Journals accepts articles and manuscripts in every major language, be it Spanish, Chinese, Japanese, Portuguese, Russian, French, German, Dutch, Italian, Greek, or any other national language, but the title, subtitle, and abstract should be in English. This will facilitate indexing and the pre-peer review process.

The following is the official style and template developed for publication of a research paper. Authors are not required to follow this style during the submission of the paper. It is just for reference purposes.

Manuscript Style Instruction (Optional)

- Microsoft Word Document Setting Instructions.
- Font type of all text should be Swis721 Lt BT.
- Page size: 8.27" x 11'", left margin: 0.65, right margin: 0.65, bottom margin: 0.75.
- Paper title should be in one column of font size 24.
- Author name in font size of 11 in one column.
- Abstract: font size 9 with the word "Abstract" in bold italics.
- Main text: font size 10 with two justified columns.
- Two columns with equal column width of 3.38 and spacing of 0.2.
- First character must be three lines drop-capped.
- The paragraph before spacing of 1 pt and after of 0 pt.
- Line spacing of 1 pt.
- Large images must be in one column.
- The names of first main headings (Heading 1) must be in Roman font, capital letters, and font size of 10.
- The names of second main headings (Heading 2) must not include numbers and must be in italics with a font size of 10.

Structure and Format of Manuscript

The recommended size of an original research paper is under 15,000 words and review papers under 7,000 words. Research articles should be less than 10,000 words. Research papers are usually longer than review papers. Review papers are reports of significant research (typically less than 7,000 words, including tables, figures, and references)

A research paper must include:

a) A title which should be relevant to the theme of the paper.
b) A summary, known as an abstract (less than 150 words), containing the major results and conclusions.
c) Up to 10 keywords that precisely identify the paper's subject, purpose, and focus.
d) An introduction, giving fundamental background objectives.
e) Resources and techniques with sufficient complete experimental details (wherever possible by reference) to permit repetition, sources of information must be given, and numerical methods must be specified by reference.
f) Results which should be presented concisely by well-designed tables and figures.
g) Suitable statistical data should also be given.
h) All data must have been gathered with attention to numerical detail in the planning stage.

Design has been recognized to be essential to experiments for a considerable time, and the editor has decided that any paper that appears not to have adequate numerical treatments of the data will be returned unrefereed.

i) Discussion should cover implications and consequences and not just recapitulate the results; conclusions should also be summarized.
j) There should be brief acknowledgments.
k) There ought to be references in the conventional format. Global Journals recommends APA format.

Authors should carefully consider the preparation of papers to ensure that they communicate effectively. Papers are much more likely to be accepted if they are carefully designed and laid out, contain few or no errors, are summarizing, and follow instructions. They will also be published with much fewer delays than those that require much technical and editorial correction.

The Editorial Board reserves the right to make literary corrections and suggestions to improve brevity.

Format Structure

It is necessary that authors take care in submitting a manuscript that is written in simple language and adheres to published guidelines.

All manuscripts submitted to Global Journals should include:

Title

The title page must carry an informative title that reflects the content, a running title (less than 45 characters together with spaces), names of the authors and co-authors, and the place(s) where the work was carried out.

Author details

The full postal address of any related author(s) must be specified.

Abstract

The abstract is the foundation of the research paper. It should be clear and concise and must contain the objective of the paper and inferences drawn. It is advised to not include big mathematical equations or complicated jargon.

Many researchers searching for information online will use search engines such as Google, Yahoo or others. By optimizing your paper for search engines, you will amplify the chance of someone finding it. In turn, this will make it more likely to be viewed and cited in further works. Global Journals has compiled these guidelines to facilitate you to maximize the web-friendliness of the most public part of your paper.

Keywords

A major lynchpin of research work for the writing of research papers is the keyword search, which one will employ to find both library and internet resources. Up to eleven keywords or very brief phrases have to be given to help data retrieval, mining, and indexing.

One must be persistent and creative in using keywords. An effective keyword search requires a strategy: planning of a list of possible keywords and phrases to try.

Choice of the main keywords is the first tool of writing a research paper. Research paper writing is an art. Keyword search should be as strategic as possible.

One should start brainstorming lists of potential keywords before even beginning searching. Think about the most important concepts related to research work. Ask, “What words would a source have to include to be truly valuable in a research paper?” Then consider synonyms for the important words.

It may take the discovery of only one important paper to steer in the right keyword direction because, in most databases, the keywords under which a research paper is abstracted are listed with the paper.

Numerical Methods

Numerical methods used should be transparent and, where appropriate, supported by references.

Abbreviations

Authors must list all the abbreviations used in the paper at the end of the paper or in a separate table before using them.

Formulas and equations

Authors are advised to submit any mathematical equation using either MathJax, KaTeX, or LaTeX, or in a very high-quality image.

Tables, Figures, and Figure Legends

Tables: Tables should be cautiously designed, uncrowned, and include only essential data. Each must have an Arabic number, e.g., Table 4, a self-explanatory caption, and be on a separate sheet. Authors must submit tables in an editable format and not as images. References to these tables (if any) must be mentioned accurately.

Figures

Figures are supposed to be submitted as separate files. Always include a citation in the text for each figure using Arabic numbers, e.g., Fig. 4. Artwork must be submitted online in vector electronic form or by emailing it.

Preparation of Eletronic Figures for Publication

Although low-quality images are sufficient for review purposes, print publication requires high-quality images to prevent the final product being blurred or fuzzy. Submit (possibly by e-mail) EPS (line art) or TIFF (halftone/ photographs) files only. MS PowerPoint and Word Graphics are unsuitable for printed pictures. Avoid using pixel-oriented software. Scans (TIFF only) should have a resolution of at least 350 dpi (halftone) or 700 to 1100 dpi (line drawings). Please give the data for figures in black and white or submit a Color Work Agreement form. EPS files must be saved with fonts embedded (and with a TIFF preview, if possible).

For scanned images, the scanning resolution at final image size ought to be as follows to ensure good reproduction: line art: >650 dpi; halftones (including gel photographs): >350 dpi; figures containing both halftone and line images: >650 dpi.

Color charges: Authors are advised to pay the full cost for the reproduction of their color artwork. Hence, please note that if there is color artwork in your manuscript when it is accepted for publication, we would require you to complete and return a Color Work Agreement form before your paper can be published. Also, you can email your editor to remove the color fee after acceptance of the paper.

Tips for writing a good quality Social Science Research Paper

Techniques for writing a good quality homan social science research paper:

1. Choosing the topic: In most cases, the topic is selected by the interests of the author, but it can also be suggested by the guides. You can have several topics, and then judge which you are most comfortable with. This may be done by asking several questions of yourself, like "Will I be able to carry out a search in this area? Will I find all necessary resources to accomplish the search? Will I be able to find all information in this field area?" If the answer to this type of question is "yes," then you ought to choose that topic. In most cases, you may have to conduct surveys and visit several places. Also, you might have to do a lot of work to find all the rises and falls of the various data on that subject. Sometimes, detailed information plays a vital role, instead of short information. Evaluators are human: The first thing to remember is that evaluators are also human beings. They are not only meant for rejecting a paper. They are here to evaluate your paper. So present your best aspect.

2. Think like evaluators: If you are in confusion or getting demotivated because your paper may not be accepted by the evaluators, then think, and try to evaluate your paper like an evaluator. Try to understand what an evaluator wants in your research paper, and you will automatically have your answer. Make blueprints of paper: The outline is the plan or framework that will help you to arrange your thoughts. It will make your paper logical. But remember that all points of your outline must be related to the topic you have chosen.

3. Ask your guides: If you are having any difficulty with your research, then do not hesitate to share your difficulty with your guide (if you have one). They will surely help you out and resolve your doubts. If you can't clarify what exactly you require for your work, then ask your supervisor to help you with an alternative. He or she might also provide you with a list of essential readings.

4. Use of computer is recommended: As you are doing research in the field of homan social science then this point is quite obvious. Use right software: Always use good quality software packages. If you are not capable of judging good software, then you can lose the quality of your paper unknowingly. There are various programs available to help you which you can get through the internet.

5. Use the internet for help: An excellent start for your paper is using Google. It is a wondrous search engine, where you can have your doubts resolved. You may also read some answers for the frequent question of how to write your research paper or find a model research paper. You can download books from the internet. If you have all the required books, place importance on reading, selecting, and analyzing the specified information. Then sketch out your research paper. Use big pictures: You may use encyclopedias like Wikipedia to get pictures with the best resolution. At Global Journals, you should strictly follow here.



6. Bookmarks are useful: When you read any book or magazine, you generally use bookmarks, right? It is a good habit which helps to not lose your continuity. You should always use bookmarks while searching on the internet also, which will make your search easier.

7. Revise what you wrote: When you write anything, always read it, summarize it, and then finalize it.

8. Make every effort: Make every effort to mention what you are going to write in your paper. That means always have a good start. Try to mention everything in the introduction—what is the need for a particular research paper. Polish your work with good writing skills and always give an evaluator what he wants. Make backups: When you are going to do any important thing like making a research paper, you should always have backup copies of it either on your computer or on paper. This protects you from losing any portion of your important data.

9. Produce good diagrams of your own: Always try to include good charts or diagrams in your paper to improve quality. Using several unnecessary diagrams will degrade the quality of your paper by creating a hodgepodge. So always try to include diagrams which were made by you to improve the readability of your paper. Use of direct quotes: When you do research relevant to literature, history, or current affairs, then use of quotes becomes essential, but if the study is relevant to science, use of quotes is not preferable.

10. Use proper verb tense: Use proper verb tenses in your paper. Use past tense to present those events that have happened. Use present tense to indicate events that are going on. Use future tense to indicate events that will happen in the future. Use of wrong tenses will confuse the evaluator. Avoid sentences that are incomplete.

11. Pick a good study spot: Always try to pick a spot for your research which is quiet. Not every spot is good for studying.

12. Know what you know: Always try to know what you know by making objectives, otherwise you will be confused and unable to achieve your target.

13. Use good grammar: Always use good grammar and words that will have a positive impact on the evaluator; use of good vocabulary does not mean using tough words which the evaluator has to find in a dictionary. Do not fragment sentences. Eliminate one-word sentences. Do not ever use a big word when a smaller one would suffice.

Verbs have to be in agreement with their subjects. In a research paper, do not start sentences with conjunctions or finish them with prepositions. When writing formally, it is advisable to never split an infinitive because someone will (wrongly) complain. Avoid clichés like a disease. Always shun irritating alliteration. Use language which is simple and straightforward. Put together a neat summary.

14. Arrangement of information: Each section of the main body should start with an opening sentence, and there should be a changeover at the end of the section. Give only valid and powerful arguments for your topic. You may also maintain your arguments with records.

15. Never start at the last minute: Always allow enough time for research work. Leaving everything to the last minute will degrade your paper and spoil your work.

16. Multitasking in research is not good: Doing several things at the same time is a bad habit in the case of research activity. Research is an area where everything has a particular time slot. Divide your research work into parts, and do a particular part in a particular time slot.

17. Never copy others' work: Never copy others' work and give it your name because if the evaluator has seen it anywhere, you will be in trouble. Take proper rest and food: No matter how many hours you spend on your research activity, if you are not taking care of your health, then all your efforts will have been in vain. For quality research, take proper rest and food.

18. Go to seminars: Attend seminars if the topic is relevant to your research area. Utilize all your resources.
Refresh your mind after intervals: Try to give your mind a rest by listening to soft music or sleeping in intervals. This will also improve your memory. Acquire colleagues: Always try to acquire colleagues. No matter how sharp you are, if you acquire colleagues, they can give you ideas which will be helpful to your research.

19. Think technically: Always think technically. If anything happens, search for its reasons, benefits, and demerits. Think and then print: When you go to print your paper, check that tables are not split, headings are not detached from their descriptions, and page sequence is maintained.

20. Adding unnecessary information: Do not add unnecessary information like "I have used MS Excel to draw graphs." Irrelevant and inappropriate material is superfluous. Foreign terminology and phrases are not apropos. One should never take a broad view. Analogy is like feathers on a snake. Use words properly, regardless of how others use them. Remove quotations. Puns are for kids, not grunt readers. Never oversimplify: When adding material to your research paper, never go for oversimplification; this will definitely irritate the evaluator. Be specific. Never use rhythmic redundancies. Contractions shouldn't be used in a research paper. Comparisons are as terrible as clichés. Give up ampersands, abbreviations, and so on. Remove commas that are not necessary. Parenthetical words should be between brackets or commas. Understatement is always the best way to put forward earth-shaking thoughts. Give a detailed literary review.

21. Report concluded results: Use concluded results. From raw data, filter the results, and then conclude your studies based on measurements and observations taken. An appropriate number of decimal places should be used. Parenthetical remarks are prohibited here. Proofread carefully at the final stage. At the end, give an outline to your arguments. Spot perspectives of further study of the subject. Justify your conclusion at the bottom sufficiently, which will probably include examples.

22. Upon conclusion: Once you have concluded your research, the next most important step is to present your findings. Presentation is extremely important as it is the definite medium though which your research is going to be in print for the rest of the crowd. Care should be taken to categorize your thoughts well and present them in a logical and neat manner. A good quality research paper format is essential because it serves to highlight your research paper and bring to light all necessary aspects of your research.

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Informal Guidelines of Research Paper Writing

Key points to remember:

- Submit all work in its final form.
- Write your paper in the form which is presented in the guidelines using the template.
- Please note the criteria peer reviewers will use for grading the final paper.

Final points:

One purpose of organizing a research paper is to let people interpret your efforts selectively. The journal requires the following sections, submitted in the order listed, with each section starting on a new page:

The introduction: This will be compiled from reference matter and reflect the design processes or outline of basis that directed you to make a study. As you carry out the process of study, the method and process section will be constructed like that. The results segment will show related statistics in nearly sequential order and direct reviewers to similar intellectual paths throughout the data that you gathered to carry out your study.

The discussion section:

This will provide understanding of the data and projections as to the implications of the results. The use of good quality references throughout the paper will give the effort trustworthiness by representing an alertness to prior workings.

Writing a research paper is not an easy job, no matter how trouble-free the actual research or concept. Practice, excellent preparation, and controlled record-keeping are the only means to make straightforward progression.

General style:

Specific editorial column necessities for compliance of a manuscript will always take over from directions in these general guidelines.

To make a paper clear: Adhere to recommended page limits.



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Mistakes to avoid:

- Insertion of a title at the foot of a page with subsequent text on the next page.
- Separating a table, chart, or figure—confine each to a single page.
- Submitting a manuscript with pages out of sequence.
- In every section of your document, use standard writing style, including articles ("a" and "the").
- Keep paying attention to the topic of the paper.
- Use paragraphs to split each significant point (excluding the abstract).
- Align the primary line of each section.
- Present your points in sound order.
- Use present tense to report well-accepted matters.
- Use past tense to describe specific results.
- Do not use familiar wording; don't address the reviewer directly. Don't use slang or superlatives.
- Avoid use of extra pictures—include only those figures essential to presenting results.

Title page:

Choose a revealing title. It should be short and include the name(s) and address(es) of all authors. It should not have acronyms or abbreviations or exceed two printed lines.

Abstract: This summary should be two hundred words or less. It should clearly and briefly explain the key findings reported in the manuscript and must have precise statistics. It should not have acronyms or abbreviations. It should be logical in itself. Do not cite references at this point.

An abstract is a brief, distinct paragraph summary of finished work or work in development. In a minute or less, a reviewer can be taught the foundation behind the study, common approaches to the problem, relevant results, and significant conclusions or new questions.

Write your summary when your paper is completed because how can you write the summary of anything which is not yet written? Wealth of terminology is very essential in abstract. Use comprehensive sentences, and do not sacrifice readability for brevity; you can maintain it succinctly by phrasing sentences so that they provide more than a lone rationale. The author can at this moment go straight to shortening the outcome. Sum up the study with the subsequent elements in any summary. Try to limit the initial two items to no more than one line each.

Reason for writing the article—theory, overall issue, purpose.

- Fundamental goal.
- To-the-point depiction of the research.
- Consequences, including definite statistics—if the consequences are quantitative in nature, account for this; results of any numerical analysis should be reported. Significant conclusions or questions that emerge from the research.

Approach:

- Single section and succinct.
- An outline of the job done is always written in past tense.
- Concentrate on shortening results—limit background information to a verdict or two.
- Exact spelling, clarity of sentences and phrases, and appropriate reporting of quantities (proper units, important statistics) are just as significant in an abstract as they are anywhere else.

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The introduction should "introduce" the manuscript. The reviewer should be presented with sufficient background information to be capable of comprehending and calculating the purpose of your study without having to refer to other works. The basis for the study should be offered. Give the most important references, but avoid making a comprehensive appraisal of the topic. Describe the problem visibly. If the problem is not acknowledged in a logical, reasonable way, the reviewer will give no attention to your results. Speak in common terms about techniques used to explain the problem, if needed, but do not present any particulars about the protocols here.

The following approach can create a valuable beginning:

- Explain the value (significance) of the study.
- Defend the model—why did you employ this particular system or method? What is its compensation? Remark upon its appropriateness from an abstract point of view as well as pointing out sensible reasons for using it.
- Present a justification. State your particular theory(-ies) or aim(s), and describe the logic that led you to choose them.
- Briefly explain the study's tentative purpose and how it meets the declared objectives.

Approach:

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Materials may be reported in part of a section or else they may be recognized along with your measures.

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- Report the method and not the particulars of each process that engaged the same methodology.
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- Simplify—detail how procedures were completed, not how they were performed on a particular day.
- If well-known procedures were used, account for the procedure by name, possibly with a reference, and that's all.

Approach:

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Use standard style in this and every other part of the paper—avoid familiar lists, and use full sentences.

What to keep away from:

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- Skip all descriptive information and surroundings—save it for the argument.
- Leave out information that is immaterial to a third party.



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The principle of a results segment is to present and demonstrate your conclusion. Create this part as entirely objective details of the outcome, and save all understanding for the discussion.

The page length of this segment is set by the sum and types of data to be reported. Use statistics and tables, if suitable, to present consequences most efficiently.

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- Present a background, such as by describing the question that was addressed by creation of an exacting study.
- Explain results of control experiments and give remarks that are not accessible in a prescribed figure or table, if appropriate.
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Result	Well organized, Clear and specific, Correct units with precision, correct data, well structuring of paragraph, no grammar and spelling mistake	Complete and embarrassed text, difficult to comprehend	Irregular format with wrong facts and figures
Discussion	Well organized, meaningful specification, sound conclusion, logical and concise explanation, highly structured paragraph reference cited	Wordy, unclear conclusion, spurious	Conclusion is not cited, unorganized, difficult to comprehend
References	Complete and correct format, well organized	Beside the point, Incomplete	Wrong format and structuring

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