

*RULE OF LAW, GOVERNANCE AND SECTORAL DEVELOPMENT IN
NIGERIA. BEING A PAPER DELIVERED BY YUSUF ALI SAN¹. AT THE
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PREAMBLE

“The rule of law is not a mere adornment to development; it is a vital source of progress. It creates an environment in which the full spectrum of human creativity can flourish, and prosperity can be built.” –*UN Commission on Legal Empowerment of the Poor Final Report, 2008.*

INTRODUCTION

I feel highly honoured to be invited to discuss this topic with this special and distinguished audience comprising of great minds produced by our proud Institution. You will undoubtedly agree with me that the chosen topic is illuminating, thought-provoking and very apt at this crucial point in time when a critical assessment of any government in the world is based on rule of law, governance and the development of the country.

As a country, one of our greatest challenges has been how to do battle with the evolvment of a culture of disrespect for the rule of law, unbridled corruption, impunity, endemic crime, violence,

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serious insecurity, insurgence, infrastructure deficit and a general malaise in the polity. The more the need or desire to enforce the rule of law is being proclaimed, the more the symptoms of bad governance manifest itself. This is so much so that one is tempted to wonder if bad governance is the end product of the rule of law.

The question of good governance has captured the attention of international institutions, including the World Bank² and several inter-governmental organizations like the G-8³. Both institutions have made this issue a critical prerequisite in their aid and donation policies to countries with poor records on governance.

The essence of this paper, therefore, is to make a short treatise on the concept of the rule of law, examine the concept of governance by looking at its meaning in relation to its key elements and the nature of development in selected sectors of our economy. Sub-heads will also be devoted to looking at the relationship between the rule of law and development and governance and development. A further step will be taken to answer the poser ‘can development thrive in a country devoid of the rule of law and good governance?’

CONCEPTUAL CLARIFICATION

² See, The World Bank, Reforming Public Institutions and Strengthening Governance. A World Bank Strategy, Washington, D.C., November 2000.

³The G8 gave prominence to this issue at its 2005 Summit. See, G8 Gleneagles 2005, SUMMIT DOCUMENTS

THE RULE OF LAW:

MEANING:

The Black's Law Dictionary, Sixth Edition, defines rule of law as:

“A legal principle of general application, sanctioned by the recognition of authorities, and usually expressed in the form of a maxim or logical proposition called a ‘rule’ because in doubtful or unforeseen cases it is a guide or a norm for their decision. The rule of law, sometimes called the supremacy of the law provides that decisions should be made by the application of known principles of laws without the intervention of discretion in their application.”

Simply put, Rule of Law connotes absolute predominance or supremacy of *ordinary law of the land* over all *citizens*, no matter how powerful. It is an ideal that appeals for unalloyed obedience to law and strict adherence to its stipulations⁴.

⁴ See: Oluwarotimi O. Akeredolu, “Rule of Law in Nigeria: Extant Profile and Challenges for the Bar”, being the Keynote Address presented at the 2008 Biennial Law Week of the Nigerian Bar Association Ilorin branch held between 14th and 16th of May 2008.

The Secretary-General of the United Nations defines the rule of law as:

“a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”⁵

Under the rule of law, rulers are subject to the law as ordinary citizens are. This idea is sometimes expressed through phrases such as “government subject to law” and “government bound by law.”⁶

⁵ [What is the Rule of Law?](#), United Nations Rule of Law.

⁶ Joseph Raz observes that such formulas would be tautological if they allowed us to say that any governmental action conforms to the rule of law, for we distinguish governmental actions

The term Rule of Law is made up of two important words viz; Rule and Law. It is desirable to consider the meaning of these words as espoused.

Rule: This connotes an accepted principle or instruction that states the way things are or should be done, and tells what is allowed and what is not allowed.

Law: This means a general rule, which states what always, happens when the same condition exists. It also means that which has been ordained with a view to regulating conduct and behaviour in the society. It has also been defined as a custom or practice recognized as binding by a community, especially as a result of having been so decreed by the governing authority⁷.

HISTORICAL BACKGROUND:

The phrase ‘Rule of Law’ has been used since the 17th century⁸, but the concept can be traced to ancient Greece. **Aristotle** put it this way:

‘He who bids the law rule may be deemed to bid God and Reason alone rule, but he who

from unlawful actions, actions going beyond government’s legal capacities. (Raz 1979: 212) Accordingly, Raz writes that “government by law and not by men is not a tautology if ‘law’ means general, open, and relatively stable law.” (Raz 1979: 213)

⁷ The New Webster’s Dictionary of the English Language, International Edition, P. 560

⁸ For example, the Universal Declaration of Human Rights of 1948 declared that ***“it is essential if man is not to have recourse as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the Rule of Law.”***

bids man rule adds an element of the beast
...The law is reason unaffected by desire'

Plato and *Aristotle* imputed none of the liberal traditions adjunct to the concept such as democracy, individuality or equality but were solely concerned with the fact that a society needed a rational touchstone separate from the potential for populist tyranny as existed in early Athenian culture. Law was not even seen as an ideal but merely a substitute for the weaknesses of men, who could not handle the arbitration of rules in a rational manner. This sort of theme was very uniform in pre-enlightenment dialogues on the structures of the state, it is extremely difficult to grasp but the rule of law had nothing to do with fairness and egalitarianism as it does in modern society, it has purely to do with putting the sovereign of a society within a normative legal system. The reason for this was to guarantee a minimum of security for those in the society. The prime example for this is *Magna Carta*, where the Barons were concerned with keeping their wealth and land and forced King John to agree to their demands.

However, around the beginning of the 18th century when scientific advances in western society led people to question the precepts of divine law and rule, was when we started to see the conception of the rule of law that was most commonly espoused by legal writers,

judges and a vast majority of modern rulers . It is in this more modern conception that we see the various liberal and modernist agenda's take up the rule of law and attach to it various other meanings.

Positivistic dialogues talk about the rule of law in terms of their fears of discretionary abuse of power. They see the Rule of Law as providing constancy and reliability in a legal system. This is why the positivist places such an emphasis on the formal nature of law. *HLA Hart* gave the best definition of the rule of law in positivism when he stated:

'A legal system is a 'closed logical system' in which correct legal decisions can be deduced...from predetermined rules'

This is therefore separate from the rule of law in pre-enlightenment terms, as it deals with how law can achieve the liberal aim of securing the autonomy of individual citizens to 'pursue our own good in our own way'. This is the classical liberal-positivist conception of the rule of law and the one that is most-oft attacked by dialogues in the latter half of the 20th century, it is typified most prominently by *Hayek's* work on Constitutional Law, that drew on early liberalist ideas as propounded by Locke and Montesquieu and

clearly stated that the rule of law was in place to define 'legal liberty'.⁹

As earlier stated in this paper, although credit for popularizing the expression "the rule of law" in modern times is usually given to A. V. Dicey,¹⁰ development of the legal concept can be traced through history as far back as Ancient Greece. The rule of law is an ancient ideal, and was discussed by Ancient Greek philosophers such as *Plato* and *Aristotle* around 350 BC. Plato wrote:

“Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state.”¹¹

Likewise, Aristotle endorsed the rule of law, writing that:

⁹ Proclaiming the importance of the concept of the "rule of law" is just a modern form of unjustifiable idolatry. Do you agree? <http://www.law-essays-uk.com>

¹⁰ [Bingham, Thomas](#). *The Rule of Law*, page 3 (Penguin 2010).

¹¹ Cooper, John et al. [Complete Works By Plato](#), page 1402 (Hackett Publishing, 1997).

*"law should govern", and those in power
should be servants of the laws."¹²*

Cicero wrote:

*"We are all servants of the laws in order
that we may be free."¹³*

During the republic, controversial magistrates might be put on trial when their terms of office expired. Under the empire, the sovereign was personally immune (*legibus solutus*), but those with grievances could sue the treasury.

An allusion to the rule of law applying to the Median kingdom is found in the Book of Daniel, where it is stated that not even the king can arbitrarily alter a law he has previously enacted: "The thing stands fast, according to the law of the Medes and Persians, which cannot be revoked."

SCOPE OF THE RULE OF LAW:

The concept of the rule of law has been discussed by different scholars and organisations.

¹² [^](#) Aristotle, *Politics* 3.16: "it is more proper that law should govern than any one of the citizens: upon the same principle, if it is advantageous to place the supreme power in some particular persons, they should be appointed to be only guardians, and the servants of the laws."

¹³ In Latin, *Omnes legum servi sumus ut liberi esse possimus*.

As used by the *World Justice Project* —a non-profit organization committed to advancing the rule of law around the world— the rule of law refers to a rules-based system in which the following four universal principles are upheld:

1. The government and its officials and agents are accountable under the law;
2. The laws are clear, publicized, stable, fair, and protect fundamental rights, including the security of persons and property;
3. The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient;
4. Access to justice is provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

A. V. *Dicey* popularized the phrase "rule of law" in 1885.¹⁴ *Dicey* emphasized three aspects of the rule of law:

- (1) No one can be punished or made to suffer except for a breach of law proved in an ordinary court;
- (2) No one is above the law and **everyone is equal** before the law regardless of social, economic, or political status;¹⁵ and

¹⁴ Dicey, Albert. *An Introduction to the Study of the Law of the Constitution* (1885).

¹⁵ It is not in accordance with the sacred principles of the rule of law for a citizen to be sent to jail for stealing N50,000 while another citizen of the same country is found guilty of embezzling billions of naira but is negotiated to plead guilty in exchange for freedom to keep half or more of the pilfered money. This represents of the highest form of inequality. The situation in the country ought to be as encapsulated in the words of Lord Denning in *Gouriet*: "**Be ye ever so high, the law is above thee.**"

- (3) The rule of law includes the results of judicial decisions determining the rights of private persons.

In 1977, the influential political theorist *Joseph Raz* identified several principles that may be associated with the rule of law in some (but not all) societies. Raz's principles encompass the requirements of guiding the individual's behaviour and minimizing the danger that results from the exercise of discretionary power in an arbitrary fashion, and in this last respect he shares common ground with the constitutional theorists *A. V. Dicey*, *Friedrich Hayek* and *E. P. Thompson*. Some of *Raz's* principles are as follows:

- That law should be *prospective* rather than *retroactive*.
- Laws should be stable and not changed too frequently, as lack of awareness of the law prevents one from being guided by it.
- There should be clear rules and procedures for making laws.
- The *independence of the judiciary* has to be guaranteed.
- The principles of *natural justice* should be observed, particularly those concerning the right to a *fair hearing*.
- The courts should have the power of *judicial review* over the way in which the other principles are implemented.
- The courts should be accessible; no man may be denied *justice*.
- The *discretion* of law enforcement and crime prevention agencies should not be allowed to pervert the law.

According to *Raz*, the validity of these principles depends upon the particular circumstances of different societies, whereas the rule of law generally "is not to be confused with democracy, justice, equality (before the law or otherwise), human rights of any kind or respect for persons or for the dignity of man".¹⁶

At least two principal conceptions of the rule of law can be identified: a formalist or "thin" and a substantive or "thick" definition of the rule of law. Formalist definitions of the rule of law do not make a judgment about the "justness" of law itself, but define specific procedural attributes that a legal framework must have in order to be in compliance with the rule of law. Substantive conceptions of the rule of law go beyond this and include certain substantive rights that are said to be based on, or derived from, the rule of law¹⁷.

GOVERNANCE

Governance is defined by the World Bank as

"the manner in which power is exercised in the management of a country's economic and social resources for development".

¹⁶ Raz, Joseph. "The Rule of Law and It's Virtue", *The Law Quarterly Review*, volume 93, page 195 (1977); reprinted by Culver, Keith. [Readings in the Philosophy of Law](#), page 13 (Broadview Press, 1999).

¹⁷ Craig, Paul P. (1997). "Formal and substantive conceptions of the rule of law: an analytical framework". *Public Law*: 467

Good governance, in the context of our country, will in effect mean the use of power by the government i.e. the President, and his ministers, senators, members of House of Representatives and how the public service operates:

- (a) To promote democracy, accountability and transparency
- (b) To formulate and implement good policies
- (c) To effectively and efficiently manage the Nigerian human and financial resources in order to achieve sustainable national development, to achieve economic prosperity to alleviate poverty.¹⁸

Good governance includes “both a broad reform strategy and a particular set of initiatives to strengthen the institutions of civil society with the objective of making government more accountable, more open and transparent and more democratic¹⁹”. It involves the traditions and institutions by which authority in a country is exercised. These include:

- (i) The process by which governments are selected, monitored and replaced;
- (ii) The capacity of the government to effectively formulate and implement sound policies, and
- (iii) The respect of citizens and the state for the institutions that govern economic and social interaction among them²⁰.

¹⁸ African Research Review Vol. 4(3a) July, 2010. Pp. 31-40

¹⁹ Minogue, 1997:4

²⁰ kaufmann, kraay and zoido-Lobatan, 1999:1

Good Governance can be seen as the act of exercising authority over the affairs of others or a country with justice and fairness. Also, it is to control authority in a rightful manner; and which must be within the tenets of democracy and must coincide with the interest of the majority in the society. In the society what this then suggests about the notion of government is that there should be positive values in government as a discourse to be cultivated and engaged with, to ensure effectiveness and service delivery.

There is a temptation to use governance and government interchangeably. Government is said to derive from the Greek word '*kyberman*' which means to steer. Government can be defined simply as a collective body of elected and appointed institutions empowered to legislate and adjudicate for the good of society, while governance is conceptualized as the processes and systems by which a government manages the resources of a society to address socio-economic and political challenges in the polity. Thus, a government is elected or appointed to provide good, effective and efficient governance. According to *Daniel Kaufmann*, governance embodies "the traditions and institutions by which authority in a country is exercised for the common good."²¹

²¹ Daniel Kaufmann, "Myths and Realities of Governance and Corruption," in Working Papers & Articles, World Bank, Washington, D.C., September 2005, p. 82

Good governance is defined by its relationship to some key prerequisites, including Accountability, Transparency, Participation, and Predictability. Let us briefly review these elements.

► **Accountability:** In a democracy, elected and appointed government officials, from the President down to the office messenger in a local government council, must be accountable for their actions and policies. They must provide answers for their activities to the general populace. It is imperative that the populace demands this from all government officials at all levels of the political system. One way of doing this is for members of each electoral constituency to construct a performance measurement framework, compelling respective government officials to provide answers for their activities and policies. They must demand regular meetings with their respective elected officials at the constituency level.

► **Transparency:** Simply put, transparency is the easy and unrestricted access to governmental information by the population. The general public must have access to information on government policies and programmes. It is vital that ministers and bureaucrats ensure the unedited dissemination of such information as demanded by the general public, excluding information pertaining to a nation's security. The general public should agitate for the enactment of an

Access to Information Act that guarantees the unrestricted access of the public to information on government policies and programmes. The enactment of such an Act will compel governments to adhere to the tenets of transparency in their decision making process, as well as limiting the chances of government officials engaging in corrupt practices.

► **Participation:** This is a very important component of the elements of governance. It is imperative that citizens participate at all levels of their government's decision making process. Their participation does not end with merely casting their votes on Election Day. They must insist and ensure that their votes count. For effective participation in public policy, it is essential for the citizens to organize themselves into credible interest groups (professional associations, academic unions, students' unions, labour unions, non-governmental organizations, etc) that constantly review government policies, articulate the positions of the general population, and engage elected officials in public debates regarding the rationale and impact of their policies and programmes on the citizens.

► **Predictability:** A democratic polity is governed by laws and regulations anchored on the Constitution of the country. Therefore, it is imperative that the application of these be fair and consistent, and thus predictable, within the boundaries of the Constitution. Any

arbitrary application of the laws and regulations would vitiate the Constitution and inhibit good governance. A critical element of this is the recognition of the principles of jurisdictional responsibilities, especially in a federal polity like Nigeria. For example, should a federal government enact a law empowering itself to review the finances, policies and activities of state governments and punish erring state officials? The obvious answer is a capital NO! There must be allocation and devolution of governmental powers among the tiers of government.

The above elements presuppose an educated, politically conscious, enlightened and an actively proactive population. Where the population is ill equipped to engage in any of the above, it is a certainty that the rudiments of good governance will readily be compromised by the holders of the levers of the government of the day. This situation buttresses the view that a society gets the government that it deserves.

It is pertinent to note that, *Daniel Kaufmann* et.al have identified six dimensions of governance which could be collapsed into the above categories. Their six dimensions of governance are:

1. Voice and accountability (VA), the extent to which a country's citizens are able to participate in selecting their government, as

well as freedom of expression, freedom of association, and a free media

2. Political stability and absence of violence (PV), perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including political violence and terrorism
3. Government effectiveness (GE), the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies
4. Regulatory quality (RQ), the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development
5. Rule of law (RL), the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence
6. Control of corruption (CC), the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as 'capture' of the state by elites and private interests."²²

²² Daniel Kaufmann, Aart Kraay, and Masimo Mastruzzi, *Governance Matters V: Aggregate and Individual Governance Indicators for 1999-2005*, World Bank Institute, World Bank, Washington, D.C., September 2006, p.4.

Good governance consists of several dimensions²³. One is the capacity of the state to function in the service of the public good. Effective functioning requires knowledge of the policies and rules that best serve the public good, and hence training of state officials in their various professional realms. It requires a professional civil service with a set of norms and structure that promote fidelity to public rules and duties, in part by rewarding those who perform well in their roles. This relates intimately to the second dimension of good governance, commitment to the public good. Where does this commitment come from? It may be generated by dedicated and charismatic leadership. Or it may derive from a cultural ethic that appreciates and a structure of institutional incentives that rewards disciplined service to the nation or the general community. In every modern society, however, it must (at a minimum) be reinforced by institutions that punish betrayals of the public trust, and so this normative element is strongly linked to the concrete institutional ones.

A third dimension of good governance is transparency, the openness of state business and conduct to the scrutiny of other state actors and of the public. Transparency requires freedom of information, including an act to ensure that citizens can acquire information

²³ Democracy, Development and Good Governance: The Inseparable Links Annual Democracy and Governance Lecture Center for Democratic Development At the British Council Hall, Accra, Ghana March 1, 2005.

about how government makes decisions, conduct business, and spend public money. Needless to say, it requires full openness and competitiveness in public procurement, but it also requires openness with regard to the personal finances of government officials. I will come back to this point in the latter part of this presentation.

Transparency is intimately related to accountability, the fourth dimension of good governance. Governing agents are more likely to be responsible and “good” when they are answerable for their conduct to the society in general and to other specific institutions that monitor their behaviour and can impose sanctions upon them. Effective oversight requires open flows of information, and hence transparency, so that monitors can discover facts and mobilize evidence. This requires a system of government by which different institutions check and hold one another accountable, compelling them to justify their actions. Power is thus constrained, bound not only “by legal constraints but also by the logic of public reasoning.”²⁴

Transparency and accountability are thus intimately bound up with a fifth dimension of good governance, the rule of law. Governance can only be good when it is restrained by the law: when the constitution and laws (including individual rights under them) are widely known, when the law is applied equally to the mighty and the

²⁴ Andreas Schedler, “Conceptualizing Accountability,” in Andreas Schedler, Larry Diamond, and Marc F. Plattner, *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder: Lynne Rienner, 1999), p. 15.

meeq, when everyone has reasonable access to justice, and when there are capable, independent authorities to adjudicate and enforce the law in a neutral, predictable, and efficient fashion. Both effective government and well functioning markets require that there be clear rules about what constitutes acceptable conduct in all realms of economic, social and political life. All actors, public and private, must have confidence that those rules will be observed. Only under rule of law can property rights be secure and contracts enforceable. Only through a rule of law can individuals be secured against arbitrary harm from the state or powerful private actors.

A fifth dimension of good governance consists of mechanisms of conflict resolution. Participation is one means for doing so. Development is not only about choice at the individual level but also about making difficult choices at the collective level. Often there is no clear answer to the question of what is in the public interest. Only through a process of political participation and dialogue can conflicting interests be reconciled in a way that is deemed minimally fair by all (or most), and that generates broad commitment among the relevant constituencies or stakeholders in the policy arena. But participation in itself can also stimulate conflict. Conflict resolution requires as well fairness, justice, and transparency, and often more specific mechanisms to ensure that all groups are heard and included and that power and resources are decentralized and

dispersed in a way that gives each community or region some real control over its own affairs.

Finally, when good governance functions in the above five ways, it also breeds social capital, in the form of networks and associations that draw people together in relations of trust, reciprocity, and voluntary cooperation for common ends. The deeper a country's reservoirs of social capital, and the more these are based on horizontal relations of equality, the more vigorous is coordination for and commitment to the public good. Social capital thus not only fosters the expansion of investment and commerce, embedded in relations of trust and predictability, it also breeds the civic spirit, participation, and respect for law that are crucial foundations of political development and good governance. In other words, it generates a political culture of responsible citizenship. All of this in turn breeds political legitimacy and stability—further deepening the society's appeal to investors who must risk capital in the effort to create new wealth. In many respects then, good governance constitutes a “virtuous cycle” in which the several elements reinforce one another in a dense interplay.²⁵

The lack of good governance and development in Nigeria has led to poverty, unemployment and Vulnerability. These conditions stultify

²⁵ Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993), pp 167-176.

the growth of the nation and the youths and in turn lead to provide a fertile ground for religious crisis, corruption, and promote ineffective governance. This leads to the question: how can all sectors in Nigeria contribute to National Development? How can it strengthen social stability through improved social services, support transparent and accountable governance, promote a more market-led economy: how can it enhance Nigeria's capacity as a responsible regional and global trade partner?

SECTORAL DEVELOPMENT IN NIGERIA

DEVELOPMENT: The Collins English Dictionary defines development as *'the act or process of growing, progressing, or developing'*. It can also be defined as an improvement in human welfare, quality of life and social well being and satisfying the population's needs and wants.

Development is a complex issue, with many different and sometimes contentious definitions. A basic perspective equates development with economic growth. The United Nations Development Programme uses a more detailed definition- according to them, development is 'to lead long and healthy lives, to be knowledgeable, to have access to the resources needed for a decent standard of living and to be able to participate in the life of the community.'

Achieving human development is linked to a third perspective of development, which views it as freeing people from obstacles that affect their ability to develop their own lives and communities. Development, therefore, is empowerment: it is about local people taking control of their own lives, expressing their own demands and finding their own solutions to their problems.²⁶ This paper will proceed to examine development in selected sectors of Nigeria.

1. DEVELOPMENT IN THE AGRICULTURE SECTOR.

Nigeria has fared really badly in this sector, which is supposed to be one of its major sources of economic strength. In the past 53 years, the agricultural sector in the country has suffered severe decline and sub-optimal growth. It is sad to think that a country, which led the world in the production and export of essential agricultural commodities in the 1960s, now depends on food produced by much smaller and less endowed nations of the world to feed its teeming citizens.

The decline in the contribution of the sector to Nigeria's Gross Domestic Products (GDP), from 63 per cent in the 1960s, to about 30 per cent in the 1980s and 1990s is unexplainable. Even though the agricultural sector today contributes about 45 per cent to the nation's GDP, the sector is still far away from attaining its potential. In the 1960s and early 1970s, Nigeria

²⁶ <http://www.volunteeringoptions.org/VolunteeringDevelopment/WhatisDevelopment>.

was a world-beater in the production and exportation of essential cash crops like rubber, cocoa, palm oil, cashew nuts, groundnut and cotton, among others. Analysts say the interruption of the Nigerian economic evolution by the discovery and exploration of crude oil in the 1970s, though considered a blessing at the time, may have become the most significant setback to the nation's economy in its period of existence.

It is however, worthy of note that the current administration is taking steps towards salvaging the agricultural sector. One of such remarkable steps taken by the current administration is to put an end to decades of corruption in the annual fertiliser supply chain. In the past government gave out contracts to people to import fertiliser, which it then distributed to farmers across the country. But with corruption, the fertiliser, which the government paid for was either not supplied or diverted and never got to the actual farmers. With the introduction of the voucher system, the federal government stopped paying individuals and groups to import fertiliser. Farmers are now simply handed vouchers with which they purchase fertiliser at a discounted rate from suppliers, a system that has helped to ensure that the government's fertiliser subsidy actually gets to

the actual farmers. It is hoped that this will be sustained and improved upon.

Other steps taken by this administration include the prohibition of importation of essential commodities for which the country has comparative advantage and the ramping up of massive programmes to boost local production of these commodities to ensure that local production sufficiently satisfies local demand, with the possibility of exporting in the future.

Due to this scheme, a 2015 deadline has been set for Nigeria to fully produce and process all the rice the people need and with massive rice plantations supported by the federal government in Sokoto, Kano, Kebbi, Kogi, Niger, Ogun, Edo and others taking shape, the 2015 target may be well in sight.²⁷

It is however, important to note that complaints are still rife about the efforts to encourage the Nigerian farmer with finance and other agricultural incentives. There are allegations that certain individuals and corporate bodies with political loyalty to the government at the center are exploiting the ordinary farmers. It is alleged that such incentives usually get to false-farmers who use the fund for something else other

²⁷ <http://www.thisdaylive.com/articles/nigeria-s-agricultural-sector-crawls-at-53>

than for agricultural purposes. Since transparency is lacking in the system, real farmers hardly get the incentives but false-farmers do; and at the end of the day, the economy loses the impact that such incentives were made to create. This happens because ours is a Nation that ignores such primary issues as agriculture which should be a very serious tool needed to overturn the sufferings of our masses by providing food, shelter, employment, decent income etc., as well as to propel the general growth and development of the nation to a sustainable level. The truth is that the agricultural sector of this nation is still being given ill-attention. Something needs to be done. It needs to be resuscitated because agriculture is truly the hen-that-lays-the-golden-egg of any economy.²⁸

2. DEVELOPMENT IN THE EDUCATION SECTOR.

The importance of education to human beings cannot be overemphasized. Globally, education is considered as a human right that should be accorded to all human beings, in fact it was the reason why a lot of international human right bodies consider education as a fundamental human right.

The status of the Nigerian educational system at the moment is unenviable. It is low in quality and standard, limited in its reach and disturbing in its future. Beneficiaries of the education system in the period before mid-1970 to the 80s,

²⁸ The Case Of Agriculture As The Only Saviour To Nigeria's Dying Economy By Chigbu, Uchendu Eugene

claimed that this sorry state is something of very recent history. The contention is that the quality of education in Nigeria before this period compared favourably with any educational system in the world; but the state of education today is far from being ideal. Teachers' strikes at all levels of education and incessant closure of schools have become the norm. Cultism and violent crime are common in institutions of higher learning in most parts of the country. Examination malpractices and admission racketeering is a common phenomenon. Un-conducive teaching and learning environment abound everywhere, teacher quality and quantity, poor remuneration, dilapidated infrastructure, and inadequate learning and teaching materials at all levels of education are the lots of education in Nigeria.²⁹ Unlike in developed countries, private individuals have failed to contribute to the development of the educational sector through endowments. Private endowments are some of the major means by which most coveted 'Havards' and 'Cambridges' of the developed countries got the lofty positions they occupy in the world educational sector today. This is one area of our national life that graphically demonstrates the parlous state of our national vibrancy. It completes our impotence as a people.

²⁹ REDRESSING THE GROWING CONCERN OF THE EDUCATION SECTOR IN NIGERIA KAZEEM, Kolawole PhD and IGE, Olusola Faculty of Education University of Benin Benin-City, Nigeria.

3. DEVELOPMENT IN THE OIL SECTOR.

While Nigeria's oil revenue has totalled \$340 billion in exports since the 1970s and it is the fifth largest producer, 70% of its population live on less than \$1 a day, and 43% have no access to clean water.³⁰ Though Nigeria is a major oil exporter, it imports most of its gasoline, and when fuel subsidies were lifted in January 2012, fuel increased from roughly \$1.70 per gallon to \$3.50.³¹ Nigeria seems to be well set up – it produces a form of oil ideal for the United States, has huge reserves, and has increased its production to 2.8 million barrels of oil a day.³² But this, some say, is all a resource curse that is hurting Nigeria and disadvantaging her people.³³

The most notable story in the oil and gas sector of the Nigerian economy today is the frittering of resources occasioned by incredible banditry said to be costing the fragile economy about 400,000 barrels of crude oil daily. Coupled with terrorism and other major political, social and economic challenges, which Nigeria faces, the nation's survival, its ability to still manage to meet its basic obligation is a testimony of the resilience of Nigerian state, which many say may be unable to withstand further stretch.

³⁰ ^ <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=75700003&site=ehost-live>
Jump up ^ <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=75700003&site=ehost-live>
Retrieved 26 November 2012

³¹ <http://www.nytimes.com/2012/01/10/world/africa/nigerians-protest-oil-price-rise-as-subsidies-end.html>

³² <http://find.galegroup.com/gtx/infomark.do>

³³ <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=75700003&site=ehost-live>
Live.

4. DEVELOPMENT IN THE INFORMATION TECHNOLOGY SECTOR

Since the early 1980s, information and communication technology (ICT) has permitted people to participate in a world in which school, work, and other activities have been increasingly enhanced by access to varied and developing technologies. ICT tools have helped people find, explore, analyze, exchange, and present information—most importantly, without discrimination. When efficiently used, ICT can provide quick access to ideas and experiences from a wide range of people, communities, and cultures. There is no doubt that Information and Communication Technology has found its niche in every sphere of Nigeria's polity

The ICT industry appears to have made a significant in road into the Nigeria society. Prior to 1999, ICT resources and facilities were grossly limited in the country. Only very few wealthy Nigerians had access to these facilities and services. Internet facilities and services were rare to come by and the facsimile (ie. Fax) remained for a long time, the only means available to Nigerians for transmitting and receiving data or documents to other parts of the world. Public awareness of ICT and its application was low.

But now, the picture is entirely different. Huge investments have been made by both the public and private sectors in the ICT business in the country. Within the last decade, the country has witnessed tremendous expansion in ICT resources and facilities. About 130 million Nigerians now have access to GSM. With the liberalization policy of the Federal Government, more GSM operators and Internet Service Providers (ISPs) have been licensed and are now operating in the country. Millions of Nigerians now have access to these facilities and services even in the rural communities.

It is commonly accepted and proven that information and communication technology (ICT) is the engine of the 21st century and beyond; as it will chart the economic, religious, cultural, legal and social life of nations, particularly that of developing countries³⁴. Hence, the importance of information and communication technology for sustainable development, has long been recognized by developing countries.³⁵ ICT has impacted on different sectors of the Nigerian economy. The application of ICT has emerged as the most radical development of the 21st century. It has facilitated speedy information transmission, high level decision making, reduces cost in resources/organizational management and as well opens vast opportunities for information sharing among

³⁴ Ukodie, 2004

³⁵ Nkereuwem (1996)

individuals, companies and governmental institutions. It is a truism that information and communication technology (ICT) is very indispensable to Nigeria's sustainable development drive. Today, ICT has been successfully integrated in the process of state administration, leading to a view concept of e-government. The potential benefits of ICT to sustainable development in Nigeria have been accepted as an imperative paradigm.³⁶

5. DEVELOPMENT IN THE SECURITY SECTOR

Over the years, the security situation in Nigeria has not been palatable, rather it is getting worst day by day to the extent that the country was captured by Purvis³⁷ in the following words:

“For the last two years, Nigeria was categorized as the 14th worst states out of 177 countries ranked by multiple factors in the Fund For Peace (FFP) Failed State index”.

This submission vividly describes the security situation in the country because of its inability to contain the unending ethnic and religious attacks of Niger Delta and Boko Haram respectively. In Nigeria, there have been various violent

³⁶ <http://www.webpages.uidaho.edu/~mbolin/nwabueze-ozioke.htm>

³⁷ 2012:1

conflicts ranging from religious, ethnic, political and resource allocation in the recent times and the security has not at any time shown professionalism by curtailing any of the conflicts from degenerating to loss of lives and property. The general decay in the country cannot encourage one to totally attribute the blame to the security sector, because the sector is part of the general society and is not immune from the effect of its challenges.

Notwithstanding, this attitude and response of the security forces to crises situation have shown an ill-equipped, poorly trained and unprofessional security sector that need urgent attention to be refocused. For example, in the various elections conducted in the country in recent times, the security sector have been accused of being used by those in power and those that can afford to finance them to intimidate their perceived political opponents. This was attested to in the various post-election tribunals across the country.

The lack of transparency, accountability and commitment of the security sector is a reflection of the major problem of the entire country, where there is no respect for the rule of law. The rule of law requires that the government, all institutions of the state and all the citizens must respect and uphold the

laws.³⁸ What we are witnessing today in our country is best described as a failure of intelligence.

6. DEVELOPMENT IN THE TRANSPORT SECTOR

Transport can contribute to the economy directly through addition to capital stock via increases in transport infrastructure. Transport provides the arteries through which the economic life of the people, information and raw materials as well as finished products can be moved from one place to the other. This therefore helps to build and maintain the society thereby leading to economic growth.

Nigeria's publicly owned transportation infrastructure is a major constraint to economic development. Principal ports are at Lagos (Apapa and Tin Can Island), Port Harcourt, and Calabar. Of the 80,500 kilometers (50,000 mi.) of roads, more than 15,000 kilometers (10,000 mi.) are officially paved, but many remain in poor shape. Extensive road repairs and new construction activities are gradually being implemented as state governments, in particular, spend their portions of enhanced government revenue allocations on this. The government implementation of 100% destination inspection of all goods entering Nigeria has resulted in long delays in clearing goods for importers and created new sources of

³⁸ Need for Security Sector Reform: Nigerian Perspective - Ola Abegunde, Ph.D *International Journal of Humanities and Social Science* Vol. 3 No. 9; May 2013.

corruption, since the ports lack adequate facilities to carry out the inspection. Five of Nigeria's airports—Lagos, Kano, Port Harcourt, Enugu and Abuja—currently receive international flights. Government-owned Nigeria Airways ceased operations in December 2002. Virgin Nigeria Airways started operations in 2005 as a replacement and serves domestic and international routes but soon went comatose. It later translated into a new airline called Air Nigeria, with a Boeing 737-500 in 2013 which also became moribund almost immediately. There are several domestic private Nigerian carriers, and air service among Nigeria's cities is generally dependable. The maintenance culture of Nigeria's domestic airlines is not up to internationally accepted standards.³⁹ Recent records show that Nigeria ranked just below China and Japan in passenger volume. As a country aspiring to rank among the top twenty economies of the world by the Year 2020, there is a compelling need for a vibrant and safe air travel system comparable to other top world economies.

To sum up, one can confidently say that, whereas most parts of the world, as far as transportation is concerned, are moving at jet speed, Nigeria is still crawling.

7. DEVELOPMENT IN THE MANUFACTURING SECTOR

³⁹ http://en.wikipedia.org/wiki/Transport_in_Nigeria

It has been argued that the fastest trend through which a nation can achieve sustainable economic growth and development is neither by the level of its endowed material resources, nor that of its vast human resources, but technological innovation, enterprise development and industrial capacity. For instance, despite its poor natural resources, and the hurdles it faced from 1920s chronic inflation, Germany has effectively exploited the manufacturing sector and rose up to become the largest economy in Europe and the fourth largest in the world.

The importance of manufacturing to an economy cannot be over-emphasised. It is obviously critical for real economic growth and development. However, after the discovery of crude oil in Nigeria in the late 1950s, the nation has shifted from its preeminent developing industrial production base and placed heavy weight on crude oil production,⁴⁰ not only has this jeopardized its economic activities, it also aggravated the nation's level of unemployment. Nigeria as a giant of Africa has for long been regarded as a nation blessed with abundant human and material resources; however, the underutilization of these potentials has amplified widespread poverty, low standard of living at individual level and rising unemployment in the country as a result of incessant mono-economic practice

⁴⁰ Englama, et al. 2010

and drastic neglect of other sectors of the economy such as agriculture, tourism, mining and the manufacturing sector.

No thanks to epileptic power supply, the existing industries operate far below installed capacity, if they are not out rightly shut down. The cost of doing business in Nigeria is too high due to lack of power, bureaucracy, corruption and other negative factors.

THE RELATIONSHIP BETWEEN THE RULE OF LAW AND DEVELOPMENT

The concept of the Rule of Law has been severally identified as a basis for development in any society. One might wonder what relationship has the rule of law with development to make it so important in any society seeking development. Below are some of the factors that have been identified as linking the two concepts.⁴¹

1. *Enabling economic development*, through a range of factors such as the protection of individual proprietary rights; guaranteeing fair and credible contract enforcement;⁴² setting and enforcing labour laws; facilitating market creation and access, inclusion for the poor and marginalized⁴³ (for example,

⁴¹ Background Paper: Overview on the Rule of Law and Sustainable Development for the Global Dialogue on Rule of Law and the Post-2015 Development Agenda Louis-Alexandre Berg and Deval Desai

⁴² See Haggard, S. and Tiede, L. (2011), "The Rule of Law and Economic Growth: Where are We?", 39 *World Development* 673 for an overview of the literature.

⁴³ See, for example, "business rights" in Commission on Legal Empowerment of the Poor (2008). *Making the*

protecting women's inheritance rights or their legal capability to enter into contracts).⁴⁴

In general, policy on the rule of law affects the rules of the game that allow people to transact.⁴⁵ There is strong evidence of a correlation between robust property rights protection and long-run economic growth.⁴⁶ On the other hand, it is not clear if property rights protection is an outcome of growth rather than its cause.⁴⁷ Moreover, while property rights are important, enforcement is a critical variable that is often overlooked.⁴⁸

2. Citizenship and social and economic justice. The elements of the rule of law related to identity, legal recognition, enabling participation and agency, and the allocation and enforcement of claims and rights – including economic and social claims and rights – have been linked to equitable growth, equitable delivery of public services, and the possibility of more effective redistribution. The rule of law has been seen as beginning with the capabilities of individuals and a community to participate in defining what is just. Development interventions have sought to build these capabilities – or a citizen's *agency and*

Law Work For Everyone: Volume 1. New York: UNDP.

⁴⁴ Mary Hallward-Driemeyer and Tazeen Hasan (2012). *Empowering Women: Legal Rights and Economic Opportunities in Africa*. Washington, D.C.: World Bank.

⁴⁵ North 1990; World Bank Justice Annex to Governance and Anti-Corruption Update (2012)

⁴⁶ See for example, Knack and Keefer 1995, Scully 1988, Acemoglu et al 2001, Acemogly

⁴⁷ Haggard, S., MacIntyre, A. and Tiede, L. (2008), "The Rule of Law and Economic Development", 11 Annual Review of Political Science 205; Haggard, S. and Tiede, L. (2011), "The Rule of Law and Economic Growth: Where are We?", 39 World Development 673

⁴⁸ Dam, K.W., 2006. *The law-growth nexus: the rule of law and economic development*. Washington, DC: Brookings Institute Press.

voice – across sectors. This cuts across all levels of a legal system, for example from high-level rules (such as constitutions) that can facilitate recognition and participation, to national and local administrative law regulating the delivery of basic services, to customary law governing the allocation of natural resource rights.

Access to justice and legal empowerment initiatives have proven to be valuable ways to do this. Legal empowerment blends community empowerment and mobilization with legal capacity building and advocacy to build the voice and political impact of the poor and marginalized. Access to legal information and to institutions of the rule of law (loosely defined) may enable the poor to take advantage of economic opportunities and resist exploitation, particularly by making local institutions (such as customary courts or local magistrate courts) accessible.⁴⁹

3. Preventing, mitigating and punishing conflict, crime and violence (including law and order). The link between security, stability and development has been clearly established, just like the negative impact of the absence of rule of law on growth.⁵⁰ Civil wars are particularly devastating to development, and

⁴⁹ Golub, S., 2010. 'What is legal empowerment?: an introduction', in Golub, S. (ed.), *Legal empowerment: practitioners' perspectives*. Rome: International Development Law Organisation.

⁵⁰ For a summary of the evidence, see The World Bank (2011) *World Development Report: Conflict, Security and Development*. Washington, DC: The World Bank.

other forms of widespread crime and violence divert the provision of public goods, destroy public and private property and infrastructure, and lead to extortion, monopoly and other harmful practices.⁵¹ In addition to preventing economic development, violence and crime have a direct impact on social development and the wellbeing of citizens.⁵² This is often contrasted in the literature with the aspects of the rule of law widely associated with the ability of states to ensure the human security of their citizens, including both physical safety and fulfilment of basic needs. Recent analysis suggests that of the various dimensions of the rule of law, the basic control of violence has the strongest correlation to economic growth in developing countries.⁵³

4. Strengthening accountability and checks on power, and reducing corruption. The rule of law entails public and private accountability in the exercise of power, and consistent and fair regulation and dispute resolution, in national and local contexts.⁵⁴ Depending on a country's constitutional and

⁵¹ Collier P. (1999). 'On the economic consequences of civil war', *Oxford Economic Papers* 51:168–83; Buvinc, M., & Morrison, A. (1999). *Violence as an obstacle in development*. Washington, DC: Inter American Development Bank; Ayres, R. (1998). *Crime and violence as development issues in Latin America and the Caribbean*. Washington, DC: World Bank.

⁵² Narayan D, Patel R, Schafft K, Rademacher A, Koch-Schulte S. 2000. *Voices of the Poor*. New York: Oxford University Press

⁵³ Haggard, S. and Tiede, L. (2011), "The Rule of Law and Economic Growth: Where are We?", 39 *World Development* 673

⁵⁴ O'Donnell, Guillermo A. 2004. "Why the Rule of Law Matters," *Journal of Democracy* 15(4); Weingast B. 1997. ;The political foundations of democracy and the rule of law'. *Am. Polit. Sci. Rev.* 91(2):245–63; UNDP (2011), *Strengthening the Rule of Law in Crisis-affected and Fragile Situations*. New York: UNDP, at 8, 11.

institutional setting, institutions that enforce and adjudicate the law, such as judiciaries and regulatory agencies, may be in a position to check the arbitrary action of government to varying degrees. This function of the rule of law shapes the meaning of and possibilities for corruption, nepotism and rent-seeking, affecting costs for economic actors⁵⁵ and the nature of long run growth. The presence of institutional checks also affects the distribution of rents and shapes the provision of public services and the quality of public infrastructure.⁵⁶ The presence of such institutions has been correlated with investment and economic growth,⁵⁷ and more generally with more robust economic activity and higher tax revenues.⁵⁸

5. *Enhancing the fair allocation of services*: By providing credible mechanisms for holding public and private actors accountable and redressing grievances, the rule of law cuts across development endeavours: road building or the provision of primary health care raises issues of the reallocation of rights,

⁵⁵ Hallward-Driemeier, M., Khun-Jush, G. and Pritchett, L., 2010. "Deals versus Rules: Policy Implementation Uncertainty and Why Firms Hate It", NBER Working Paper No. 16001

⁵⁶ Bhagwati, J. (1982). 'Directly unproductive profit-seeking (DUP) activities'. *Journal of Political Economy*, 90(51), 988; Poli Mauro P. 1998. 'Corruption and the composition of government'. *J. Public Econ.* 68(88):263; Tanzi V, and Davoodi H. 1997. 'Corruption, public investment and growth'. IMF Working Paper Series WP/97/139.

⁵⁷ Henisz, W. J. (2000). 'The institutional environment for economic growth'. *Economic Politics*, 12(1), 1; Helmke, G., & Rosenbluth, R. (2009). "Regimes and the rule of law: Judicial independence in comparative perspective". *Annual Review of Political Science*, 12, 345

⁵⁸ Olson, M. (1993). 'Dictatorship, democracy and development', *American Political Science Review*, 87, 567; McGuire, M., & Olson, M. (1996). 'The economics of autocracy and majority rule: The invisible hand and the use of force'. *Journal of Economic Literature*, 34, 72; Weingast, B. (1997), 'The political foundations of democracy and the rule of law', *American Political Science Review*, 91(2), 245.

privileges, duties and powers. A legal system frames these reallocations, adjudges their legitimacy, enforces them, and deals with the grievances of those who lose out.⁵⁹ It seems clear from the evidence that Rule of Law is important to service delivery.

6. *Protecting the environment and natural resources.* The rule of law is important to any notion of sustainable development.⁶⁰ It enables the sustainable use of the environment by protecting environmental rights in constitutions and legislation; enforcing regulations; requiring administrative protections such as environmental impact assessments; and defining rules for natural resource exploitation and governance. The rights of indigenous peoples to manage and share in the benefits of their land and natural resources are a feature of the international legal regime and in some countries are incorporated into national laws and policies with the establishment of protected areas.⁶¹

⁵⁹ Sage, C., Menzies, N. and Woolcock, M., 2009. 'Taking the rule of the game seriously: mainstreaming justice in development The World Bank's Justice for the Poor Program'. In: IDLO Legal Empowerment working papers, No. 5. Rome: International Development Law Organization; Sandel, M., 2007. Justice: A Reader. Oxford: Oxford University Press.

⁶⁰ International IDEA and IDLO (2012), "Informal discussion on linkages between the rule of law, democracy and sustainable development", Concept Note, at <http://www.idea.int/un/upload/Concept-Note-IDEA-IDLOItaly-rev-5-0-Final.pdf>

⁶¹ Anaya, S. and Williams Jr., R. 2001. "The Protection of Indigenous Peoples' Rights over Lands and Natural Resources Under The Inter-American Human Rights System." 14 *Harvard Human Rights Journal* 33; Xanthaki, A. 2003. "Land Rights of Indigenous Peoples in South-East Asia." 4 *Melbourne Journal of International Law* 467.

THE RELATIONSHIP BETWEEN GOOD GOVERNANCE AND DEVELOPMENT

DEMOCRACY AND GOOD GOVERNANCE:

Conceptualized in the way we did earlier in this presentation, good governance promotes economic development. Governance comprising of real democracy—that is competitive, open, participatory, and responsive—provides a means for citizens to monitor and evaluate the performance of government, and to remove officials and representatives who do not serve the public interest. By generating and defending broad commitment to the public welfare, a high-quality democracy with good governance increases the likelihood that public resources will be used to generate public goods that stimulate investment and commerce and raise the quality of life. A manifest commitment to the public welfare on the part of government also breeds a civic spirit in society, including a willingness to pay taxes and obey the law. Ordinary citizens will sacrifice immediate advantages for the longer-term common good only when they believe that their fellow citizens will as well. When government itself is transparent and disciplined in its commitment to the public good, it provides credible signals to the rest of society about what types of behaviours can be expected.

CAPABILITY AND KNOWLEDGE:

More capable and knowledgeable government also generates the capacity to enforce the law, mediate disputes, keep order, collect taxes, promote trade, maintain fiscal stability, attract investment, and foster economic growth. In defending human rights and property rights, in promoting equal access to opportunity based on talent and effort rather than power, and in providing a fair means for the resolution of disputes, the rule of law generates an enabling environment for economic growth. In incorporating groups that historically have been confined to the margins of society, good governance mitigates social conflict and harnesses the full range of talent and resources in the society. In fostering the accumulation of social capital, good governance cultivates trust (in individuals and in government), cooperation, compliance with the law, and confidence in the future. Social and political confidence also breeds economic confidence, and a willingness to invest for the long run.

CORRUPTION:

By contrast, bad governance, and most specifically rampant corruption, constitutes the bane of development. Extensive corruption discourages private investment, distorts resource allocations, deforms policies, proliferates regulations, swells budget deficits, enervates institutions, diverts resources from productive (wealth-generating) activity, and squanders large amounts of resources. Funds that could go to educate and inoculate children,

pave roads, build markets, dig wells, generate electricity, and otherwise provide an overall enabling environment for growth instead wind up in overseas bank accounts and real estate, or financing the importation of expensive cars and other luxury goods for already wealthy individuals. Worse still, officials often waste even more money purchasing weapons and building structures the country doesn't need (and likely will never use) in order to generate an opportunity for kickbacks. A 2002 report prepared for the African Union estimates that corruption costs the continent \$148 billion annually.⁶² That is well over a quarter of the continent's entire Gross Domestic Product.

Many people wonder why good governance under a democratic rule is recommended for good governance. They look at China or Malaysia or the East Asian tigers of a generation ago—Singapore, Korea, Taiwan, to a lesser extent Thailand: they all developed without democracy. Indeed, it used to be argued that they developed because they were not democracies, because the concentration of power under authoritarian rule permitted high investment. This is a completely fallacious comparison. The East Asian miracles took place in a historic and regional context that is unlikely to be repeated. All of these countries were located in a region that was primed for rapid development by the presence in the region of Japan, with its vast expanding economy, and by the immense

⁶² African Development Bank 2003, p. 42

geostrategic interest of the United States in stemming the expansion of communism. Moreover, all of these elites faced an existential threat of communism, with Red China threatening their very survival. It was develop or die. So these elites had to develop serious states with a capacity for and commitment to the generation of public goods, because if they did not do so, they were headed for extinction. Additionally, most of these countries either had or managed to fashion a degree of common national identity that does not exist in most of Africa. This also bred commitment to the common national project of development.

It is apparent that this convergence of circumstances that fostered rapid development under authoritarian rule cannot be repeated in the present day. Moreover, why would anyone want to repeat the repression, the brutality, the loss of freedom and the climate of fear, if it were possible, as the evidence is clearly showing that it is possible, to achieve rapid and sustainable development under democratic governance?

In fact, a growing body of empirical evidence and statistical research within Africa demonstrates the inseparable link between democracy with good governance and sustainable development. Only two African countries, Botswana and Mauritius, have achieved relatively good development performance in the past three decades. Not

coincidentally, these are the only two African countries that have been continuously democratic since independence, and in fact they have institutionalized fairly liberal democracy.

It is difficult to make a case for the economic benefits of democracy by comparing only two small countries with the other 46 in Africa. Still, the data not only show that Botswana and Mauritius have had dramatically better development performance than the rest. They also suggest that the African countries that democratized during the 1990s made some development progress during the decade, while the lingering semi-democracies and autocracies performed much more poorly as a group and in general, continued to slide backwards.

Evidence on the link between good governance and development is not only coming from Africa. *Roll and Talbot* recently found that among the most significant factors in explaining variations in per capita national income during the 1990s were several different measures of freedom, including political rights, civil liberties, press freedom, and property rights, each of which “has an independent, strong, and positive influence on country income.”⁶³ More strikingly, they found that there is clearly a causal effect of democracy on economic growth, as “democratic events” (transitions to democracy or increases in freedom) have been followed by rather

⁶³ Roll and Talbot 2003, p. 79.

dramatic increases in Gross National Income per capita, which tend to accelerate further over time if a country sustains the democratic trend, while antidemocratic events are followed by declines in economic growth.⁶⁴ Comparing the 176 most democratic leaders and the 179 most autocratic leaders since 1952, *Bueno de Mesquita* and his colleagues found that the average democratic leader produced a real annual economic growth rate of 3.04 percent, compared to 1.78 percent for the average autocrat.⁶⁵ Within Africa, *Eifert* finds “a large and robust relationship” between political openness and economic growth, both across African countries and over time. “The difference in political openness between the most democratic and the least democratic African state is associated with a growth gap of over 4.5 percentage points per year.”⁶⁶ Globally, democracy has had a discernible effect over the past half-century in reducing infant mortality, even when accounting for other developmental factors such as per capita income.⁶⁷ And when broadening the analysis to consider a wider range of governance variables (including “voice and accountability” and rule of law), Kaufman and his colleagues in the World Bank find “a strong positive causal relationship from improved governance to better development outcomes.”⁶⁸

⁶⁴ Ibid, p. 82.

⁶⁵ Bueno de Mesquita et al 2001, p. 65.

⁶⁶ Eifert, 2003, p. 2. The relationship was tested for African countries during the period 1972-1999.

⁶⁷ Zweifel and Navia 2000, Navia and Zweifel 2003.

⁶⁸ Kaufmann, Kraay, and Zoido-Lobaton 1999, p. 15. Each of their six governance dimensions has a large and significant positive effect on per capita incomes and a large, significant negative effect on infant mortality. For example, “a one standard deviation improvement in governance leads to between a 2.5 fold (in the case of

One reason why Africa continues to lag so far behind economically is that it lags well behind in governance as well. Among the major regions of the world, only the Middle East is clearly worse in terms of democracy and freedom. Only about two in every five African governments are accountable to their people through the most minimal instrument of free, fair, and competitive national elections. And of these 19 or so democracies, only about five can be said to be liberal, in terms of allowing extensive civil and political freedom.

The fundamental new insight that is reshaping the political economy of development is in fact a very old one. Governance matters. The nature and quality of governance, and the types of policies that governments choose, have a huge impact—apparently, the decisive one—in shaping how economies perform, and whether and how rapidly people will escape from mass poverty. As *William Easterly writes*, “Bad governments... can kill growth.”⁶⁹ And that is exactly what has happened in Africa. Growth requires that people reduce present consumption in return for greater income in the future. Where government policies and actions discourage investment in the future—through policies and practices that generate high inflation, high black market premiums, negative real interest rates, high budget deficits, restrictions on free trade, rotten public services,

voice and accountability) and a 4-fold (in the case of political stability and violence) increase in per capita income,” p. 15.

⁶⁹ Easterly 2001, p. 217.

and massive corruption—investors and producers run for cover.⁷⁰ Indeed, *Easterly* has found that “Africa’s higher government budget deficits, higher financial repression, and higher black market premium explain about half of the growth difference between East Asia and Africa over the past three decades.”⁷¹

For a long time, African leaders and official institutions blamed the continent’s woes on the legacies of colonialism and the injustices of the international system. In some intellectual circles, this type of explanation is still fashionable. Increasingly, however, Africans are recognizing that the core of the problem now lies in the defects of their own institutions of governance and the distorted incentives they generate.

CAN DEVELOPMENT THRIVE WITHOUT RULE OF LAW AND GOOD GOVERNANCE?

After the long journey undertaken to examine the principle of the rule of law, governance and development, it is most apparent that the concepts are dependent on one another. Rule of law and good governance advocate equality and development. As a matter of fact, inequality is one of the main features of bad governance.

⁷⁰ Ibid.

⁷¹ Ibid, 237.

Good governance becomes very fundamental and imperative when viewed against the backdrop of massive deterioration of government institutions, pervasive poverty and widespread unemployment, corruption, as well as the near total collapse of moral and ethical standards engendered by nearly three decades of military rule in the country, which saw governance capacity weakened at all levels⁷².

Rule of law and good governance, as expressed through factors like equality before the law, reliability, predictability and accountability is increasingly seen as a key factor in ensuring national prosperity. However, many aspects of the relationship between good governance and national prosperity is still poorly understood in Nigeria. More attention has to be given to the role that good governance plays in achieving social and economic development.

More than 28 years of military dictatorship did so much to derail Nigeria's move towards greatness. Since the return to civilian dispensation in 1999, strident efforts have been made to chart the right path for the country to attain greatness.

Good government depends on an ability to exercise power, and to make good decisions over time, across a spectrum of economic, social, environmental and other areas. This is linked with the government's capacity for knowledge, mediation, resource allocation, implementation and maintenance of key relationships.

Finally, the symptoms and consequences of bad governance are corruption, injustices, inequity, integration crisis, ethno-religious

⁷² World Bank, 2002; Ujomu, 2004

feuds and a host of others. Among these, however, in the matter of governance the most critical issues of morality are the issues of corruption. Corruption has generated unimaginable level of poverty and underdevelopment. This has further destroyed good governance. Poverty of the vast majority of the populace makes it nearly impossible for them to see their problems clearly, let alone think of solutions. It makes them vulnerable and easy to manipulate. Due to the fact that poverty is also a weapon in the hands of the political elite for further manipulation and exploitation, it is further perpetuated to maintain the grips of the political elites on the society. Therefore, to promote development through good governance, sound anti-corruption policies devoid of rhetoric must be put in place. In addition, the principle of the rule of law must be placed in a high pedestal, in that the legislature and the judicial arm must be functional and alive to their responsibilities, since a healthy and sound judiciary and legislature are *sine qua non* for good and democratic governance.⁷³ The evidence is there for all to see, all the industrialized countries of the world are also the leaders in then observance of the rule of law.

CONCLUSION

In conclusion, it is imperative on the stakeholders to think about what constitutional, institutional, and legal reforms would be

⁷³ olumideidowu.blog.com/2010/11/24/good-governance-and-development

necessary for us to achieve real good governance—the kind that would transform, protect, and finally develop this country. There is the need to control corruption and abuse of power so that they become infrequent and risky activities. It is also important to ensure a mass mobilization of all available resources for development.

The quality of governance should be recognised as fundamental rights in ensuring the quality of life of citizens. Good governance should be important as a determinant of the sustainability and strength of democracies.

However, some very dramatic legal and institutional tools are going to be needed to break these entrenched expectations. In essence, to promote good governance, sound anti-corruption policies devoid of rhetoric must be put in place, laws will need to be enforced. Corrupt officials will need to be prosecuted, and if convicted, punished with jail term in accordance with the rule of law. One lesson of a serious counter-corruption crusade is that you need to “fry the big fishes.” Laws must be enforced for both the mighty and the meek and this is going to require a very extensive counter-corruption bureaucracy, with enough investigators, auditors, and prosecutors to mount a truly comprehensive effort. The statutory bodies in charge of oversight as well as prosecution must also have the legal and

political autonomy to pursue and punish wrongdoing, no matter what the consequences.

An effective system of accountability must begin with the way the officials of the anti-corruption bodies are appointed. It just goes without saying that presidential appointment is not conducive to independence of these bodies. Some new body, perhaps drawn from the judiciary, the parliament, and civil society, is needed to appoint, supervise, and if necessary discipline, and to determine the funding of all of these oversight bodies, what we call “agencies of restraint.” Such a supreme oversight body could appoint the leaders and high officials of all of these agencies, who could then only be removed by due process. It could set the budget and staffing of each institution, and the parliament could be required to appropriate the requested funds unless it could show cause why the request was unreasonable. If they are going to be able to do their jobs effectively, even if with vastly increased financial and human resources, these agencies of restraint will need the support and help of civil society, including the mass media and all of these actors will require an environment of political freedom and transparency.

Furthermore, an intensive implementation of the Freedom of Information Act is also necessary to ensure that civil society can

monitor what government does, how it makes decisions and allocates contracts, and how it spends public resources.

All these simple points may seem elementary but they are crucial to sustainable development in all the sectors of the economy. There is simply too much poverty, too much injustice, too much needless suffering in this nation to continue with the old games of gesturing and pretending.

Keeping corruption in check is only feasible if representatives from government, business and civil society work together to agree on a set of standards and procedures they all support. I believe that corruption cannot be booted out in one big sweep. Rather, fighting it is a bit by bit, project-by-project process. Rome was not built in a day. One step at a time, a million mile journey will be completed.

WAY FORWARD

It is undoubted that our nation needs deliverance from the vice clutches of want, poverty, disease, corruption, bad governance, insecurity, impunity, tribalism, religious bigotry, ignorance, joblessness and other negative issues that have kept us down as a people. Thus we need to do the following very quickly:

1. Even-handed and equitable application of laws and rules to all and sundry, irrespective of status, position and standing.

2. Promulgation and promotion of laws and regulations that not only have human faces but, are easy to understand and obey.
3. Conscious effort to build a strong, virile and stable civil society.
4. The urgent need to build institutions that will outlive any government in power.
5. There is the urgent need to give the fight against corruption a big dose of political will backed by adequate funding of the anti-corruption agencies, which, in addition, must be strengthened.
6. Leaders at every level of government should have larger visions of the country and its people.
7. Religious leaders must stand to be counted in the war of moral re-awakening, by promoting the universal oneness of man and de-emphasize material acquisition, which today appear to be their main preoccupation.
8. Government should promote core values which will form the basis of patriotism in the citizens.
9. Every Nigerian must buy into the war against corruption, impunity and lack of commitment by leaders.
10. Our politics will have to outgrow the pedestrian pedestal on which it is now, to the politics of issues and development.
11. Political office should stop being seen as an access to meal tickets and escape route from poverty.

12. Laws and regulations must be enforced in accordance with the letters of those laws and regulations by those on whom the mantle of enforcement is placed.

13. We should have in place laws that will criminalise the spectra of abandoned projects.

14. There should be inculcation positive social values in the youths to discourage them from worshipping on the altar of materialism like the generation of their parents.

CLOSING REMARKS

I wish to thank the Great Ife Alumni Association for the honour done to me by extending this invitation, inviting me to deliver the 21st Biennial Convention Lecture. All the things said in this lecture is a clarion call to national duty for the Alumni Association and other such organisations all over the Federation.

Our children and generations yet unborn will not forgive our generation if all we bequeath to them as a nation is a country that has refused to attain its rightful place in the comity of nations, due to our negative actions and numerous inactions. Our country is like a car without tyres. It is the duty of all of us to get new tyres for the car, so that it could more.

I thank each and every one of you for your patience and attentive listening.