

**GOVERNANCE IN NIGERIA POST-1999:
REVISITING THE DEMOCRATIC ‘NEW
DAWN’ OF THE FOURTH REPUBLIC**

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1 Introduction

Nigeria’s return to democracy in 1999 was received with great local and international optimism.¹ It marked the end of military rule. It signalled the commencement of a new era. Given that the previous republics had witnessed major democratic crises, the commencement of the Fourth Republic was tainted with experiences from the past – the end of the First Republic due to socio-political skirmishes and the emergence of the military; the civil war of the late 1960s and the continuity of military rule; the demise of the Second Republic due to widespread corruption and electoral malfeasance in the 1980s; the termination of the third republic in 1993 due to the political agenda of the ruling military class; and the episodes of agitation against state repressions that trailed the 1990s. The lessons from these periods were rich historical fossils that could enrich the democratic future which the Fourth Republic was to commence. However, as the last two decades have revealed, some of these histories have only become revolving plots in the Fourth Republic. Nonetheless, there is something to be said about the fact that the democratic experiment of the Fourth Republic so far is the longest that Nigeria has experienced. While this reflects progress when compared to earlier endeavours, it also reflects a strong commitment to the values of democracy as an ideal in the furtherance of good governance.

Twenty years on there have been concrete developments that champion or defeat the post-1999 optimism consideration. This book project seeks to fill an important gap by offering a timely assessment and analysis of the challenges and possible solutions on relevant issues in Nigeria. It revisits

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the old age issues confronting the Nigerian state within the period of 20 years of democratic 'new dawn'. In doing so, it critically reflects on the complexities of restructuring change for an effective realisation of human rights, the promotion of good governance and robust democracy in Nigeria. With the intention of informing the present and future discussions on the way forward, this book assembles the thoughtful work of scholars and practitioners in fields of human rights, international relations, political science on critical issues confronting the Nigeria project. In doing that, the book presents insightful contributions that provide the reader with unique and nuanced insights into past, ongoing, and future efforts to enhance the protection of human rights in Nigeria.

The book is divided into four main parts. The first part examines issues that cut across democracy, governance and human rights in post-1999 Nigeria. The second part focuses on the issue of governance and democracy addressing pertinent challenges that affect the Nigerian state post-1999. While the third part analyses issues of human rights protection, the fourth part draws comparative experiences and lessons for Nigeria. Overall, the chapters in this book engage key issues that are relevant to the furtherance of Nigeria's democratic future.

PART I: Cross-cutting perspectives

Two main chapters cut across the thematic focus of this book and examine its core themes from a cross-cutting perspective. The central themes of these contributions are examined below.

In chapter 2 Adeola examines the question of democratic governance and human rights along the four main epochs post-1999: Obasanjo, Yar'Adua, Jonathan and Buhari's Nigeria. She argues that while the Fourth Republic is the longest streak of democratic governance in Nigeria, it is presumptive to conclude that this implies that there is consistent growth in democratic governance and human rights protection. However, she makes the point that while there is a commitment towards ensuring that the democratic landscape is not compromised, challenges that impede the smooth operation of democracy as a governance strategy ought to be addressed. She sets the tone for the subsequent contributions in the book by raising the pertinent question as to whether there are proofs of democratic governance and human rights protection in Nigeria. Exploring this question along the four democratic epochs post-1999 until 2019, namely, Obasanjo, Yar'Adua, Jonathan and Buhari's Nigeria, Adeola establishes that there has been a mix of 'optimism, skepticism and pessimism' 20 years on. According to the author, in spite of a sustained commitment towards maintaining democracy as a veritable structure of governance, key challenges remain around election reform, ethnic and religious tensions, and a nationalism that can sustain unity, faith, peace and progress.

In chapter 3 Kariseb and Oyakhirome examine women's political

participation in Nigeria post-1999. Drawing on relevant normative standards, they argue that women participation ought to be as imperative. They argue that Nigeria, as most of its counterparts in the Global South, remains a weak force as far as the integration of women in political and decision-making structures is concerned. Despite this setback, specific measures have been put in place to advance the course of women in political spaces. Gains have of late been made but these are weakened by existing gaps and shortcomings. In a sense, Nigeria remains illustrious for both progression and regression in this regard. The authors advocate the urgency of legal reform that entrenches strategies and measures to emancipate women in political and decision-making spaces that are capable of translating into qualitative empowerment for women at grassroots level in Nigeria.

PART II: Governance

There are seven chapters in this section that critically examine issues of federalism, political finance, independence of the judiciary, separatist agitation and energy governance.

In chapter 4 Nwebo examines the issue of federalism post-1999. He argues that while federalism appears to be the most viable option in view of Nigeria's heterogeneous setup, there is a need to reflect on the power relations between the central government and among federating units. Drawing on the nature of the current power relations, he makes the point that the country seems to be running a unitary government which is non-reflective of the ideals of true federalism. Nwebo argues for a renegotiation of the current federal structure, making the point that all contentious issues relating to agitations for restructuring should be treated as negotiable and the outcome should be subjected to a plebiscite or referendum.

In chapter 5 Okoosi-Simbine and Yagboyaju examine the nature and trend of political finance – a pertinent issue, perhaps, not unrelated to the emergence of godfatherism in Nigeria. Prior to the 2015 general elections it was a regular feature in the news that the incumbent head of government, President Mohammed Buhari, once lamented that he lacked the financial resources to pay the exorbitant cost of obtaining a nomination form of his party for the presidential position. Yet, this is only but one of the several ways in which finance can influence democratic choices of the electorates. Thus, regulating unrestrained deployment of 'cash' to shape political direction and choices in Nigeria's 20 year-old Fourth Republic constitutes a major challenge. In this contribution, the authors analyse the problem of ineffective tracking and reporting of political finance in Nigeria as a manifestation of the country's weak state and public institutions. To respond to the challenge, the authors draw examples of best practices from across the developed world as well as Nigeria's 'golden past'. They further argue that there is a pertinent role for civil society in pushing for 'improvements in the legal framework to provide for actionable sanctions

as may be applicable’.

In chapter 6 Adeola engages one of main challenges that Nigeria continues to face in its governance process – the incessant call of its ethnic groups for secession in the post-colonial era. Adeola engages with the issue with particular focus on the case of ‘Biafra’. She argues that the issue of secession raises legitimacy question regarding democratic governance in Nigeria, a problem which she traces to ‘Nigeria’s ethnic formations’. She argues with particular emphasis and reflection on the recurring quest for the Biafra state that understanding ethnic formations is necessary in contextualising agitations for secession and how to resolve them. She begins by establishing that to resolve these agitations, it is imperative to look back to the political and ethnic formations in the Nigerian state, and in her analysis she draws on proximate and ultimate causations that need to be understood in addressing the issue of Biafra post-2019.

In chapter 7 Ayode contextualises democracy within energy governance in Nigeria. He traces the energy governance landscape with a focus on major laws, policies and institutions and demonstrates how the failure to adopt a democratic energy governance approach impedes on the functionality of the extant legal frameworks and reforms. Energy development plays a crucial role in Nigeria’s economic development, but according to the author, military rule prior to 1999 in Nigeria unveils an energy sector that exhibits serious governance challenges. He recommends a democratic energy governance regime that is premised on three tenets: a decentralised structure; energy transition from fossils to renewable energy; and public participation and accountability.

In chapter 8 Ekhaton and Agbaitoro also reflect on energy governance in Nigeria drawing on the implications of Nigeria’s accession to the International Energy Charter (IEC) and how this might be an added value to achieving sustainable development in Nigeria. The IEC is a global framework that seeks to enhance energy governance through international cooperation and mobilise energy investment that is pertinent to addressing global concerns including climate change. Noting that the oil and gas sector is beset with a plethora of challenges, they argue that a proper implementation of the IEC will lead to enhanced utility of renewable energy sources in Nigeria.

In chapter 9 Olayinka examines the role of the judiciary in the sustenance of Nigerian democracy. Nothing more can be more crucial to the democratic vision of a state than to have a vibrant and activist bench which can make the right calls wherever necessary to check abuse of power and impunity by the state, enforce human rights, and enhance the realisation of constitutionalism, accountability and the rule of law. Olayinka explains that 20 years on the judiciary has had to contend with governments’ refusal to enforce valid orders and decisions of the courts, as it was under the military. This development militates against the judiciary’s suitability to regulate the political stakeholders for the promotion of

democracy and human rights. Recognising that the judiciary has a significant constitutional responsibility in preserving the ‘the integrity of democracy’, he concludes that for the judiciary to adequately supervise and sustain democracy in Nigeria, a court should be empowered to act on its own volition, and to decide on the same without any form of pervasive influence.

In chapter 10 Adeola, Jegede and Karibi-Whyte consider the issue of federalism and the debate of restructuring Nigeria post-1999. Drawing on the structure of the Nigerian federation and the question of resources, they argue that the real change must proceed from political commitment to the process. On the issue of federation, the authors contend that while the debate on the form of political structure – parliamentary or presidential – is intellectually noteworthy, the core challenge lies in the practical dimension of the structure in terms of cost and efficiency as well as equitable ethnic minority representation. Regarding the issue of resource control and revenue allocation, the authors explain that the revision of the derivation policy and equitable compensation of states in the federation from which natural resources are extracted is necessary in order to assuage the agitation around resource control and revenue allocation. The authors conclude that this is important in light of the fact that all states in the federation have natural resources that can be leveraged upon in Nigeria.

PART III: Human rights protection

The third part of this book focuses on the issue of human right protection. There are four chapters in this section touching on women and youth participation, the protection of internally-displaced persons and safeguarding human rights through climate change commitments.

In chapter 11 Adejonwo-Osho examines the potential of leveraging on Nigeria’s ‘nationally determined contributions’ (NDC) strategy to protect human rights. The author argues that although Nigeria does not have climate change legislation, it is a signatory to the Paris Agreement and it is committed to tackling climate change through its NDC, a system of national pledges to reduce emissions referred to in the Paris Agreement. Her chapter examines the potential of leveraging on Nigeria’s NDC strategy to protect human rights, especially in key sectors identified as having high greenhouse gas (GHG) mitigation potentials. She concludes that integrating a rights-based approach in climate policy and action remains the most veritable means for strengthening climate change ambitions, obligations, garnering public support and promoting successful and fair mitigation efforts in Nigeria.

In chapter 12 Akintayo makes the case for fighting corruption in Nigeria through the instrumentality of citizens’ rights. He explains this approach as encompassing the right to vote, the right to protest, freedom of expression and the press. Noting that the fight against corruption in Nigeria is yet to make any headway despite several efforts and initiatives

by governments, he argues that this may not be unconnected with vested interests, interference and rent-seeking activities of Nigeria's kleptocrats and their cronies who have not and will not allow the different anti-corruption strategies crafted by the government to work. The author examines and analyses how the court have interpreted the relevant provisions of the Constitution, the laws in selected cases and the likely impact of the jurisprudence on the creation of necessary space for citizens' action and engagement with corruption and abuse of office in the polity. In concluding, Akinola's contribution recommends that citizens' right approach must be strengthened to improve participation of citizens in the fight against corruption.

In chapter 13 Ibe reflects on a significant optics through which human rights and democracy is globally advanced: the civic space. He argues that as in the case of several other countries, Nigeria is sliding towards a restrictive space for civil society – a development that has negative implications for its democratic experiment and constitutional order. In the Nigerian context, he examines the imperative for civic activism, considers the restrictions to civic activism and makes the case for ways through which the civic space can be expanded. He argues that restrictions on the civic space in Nigeria take three main forms: an attempt to enact a non-governmental organisation (NGO) law; restrictions on protests; and a crackdown on the media. However, he points to the fact that there are other 'subtler manifestations' that also exemplify constriction of civic spaces. Ibe argues that an active civic space is important for sustaining Nigeria's democratic experiment and more importantly promoting and protecting the rights and freedoms of ordinary Nigerians.

In chapter 14 Bamisaye and Nwebo examine youth participation in Nigeria post-1999. The authors interrogate the legal status of youth political participation since the return of democracy in Nigeria. In doing so, they demonstrate the extent to which the rights of Nigerian youth to political participation have been promoted or derogated from under the Nigerian legal system. The comparative dimension of their submission reveals how the experiences of countries, in particular Kenya and South Africa, can enhance the participation of youth in the political space in Nigeria. In addition to the suggestion that age restrictions against youth participation should be removed, the authors recommend that Nigeria should comply with its obligations under the African Charter of Human and Peoples' Rights, the African Youth Charter and other international human rights instruments on youth rights to political participation.

PART IV: Comparative experiences and lessons

Many contributors in this book engage the comparative experiences and lessons that may not only help in understanding the present trend, but may also shape future direction of the state of human rights governance and democracy in Nigeria. Their chapters offer a range of important

perspectives that sometimes are overlooked in literature which isolate political trend in Nigeria from experiences of other nations around her in Africa.

In chapter 15 Adeola examines the protection of internally-displaced persons in Nigeria. Reflecting on the protection landscape for these persons, she argues for a legal framework to address the protection gap. Considering similar laws in Kenya, Niger and South Sudan, she argues that there are key imperatives which a legal protection regime should reflect. Among these are the recognition of various root causes, the role of specific agencies, coordination, the primary responsibility of the state and provisions on awareness raising and monitoring.

In chapter 16 Lubaale and Jegede engage the issue of human rights accountability in the context of armed conflict. The gross human rights violations that often feature in the effort of the state to address internal conflicts and general insecurity are a compelling reason for this contribution. The authors draw on comparative lessons from Uganda for Nigeria as Nigeria's security forces tackle the challenge of Boko Haram. In this chapter the authors argue that there is a need to address the pervasive human rights violations that has characterised the fight against Boko Haram in Nigeria's north-east. Drawing on the example of Uganda, the authors demonstrate the importance of developing domestic structures in responding to the atrocities. They argue that although the principle of complementarity allows states to exercise jurisdiction over international crimes that are of human rights significance before the International Criminal Court (ICC) intervenes, Nigeria's current legislative framework limits the effectiveness of this arrangement. The experiences of Uganda constitute useful insights that can assist Nigeria in addressing the limitations with which Nigeria is contending in so far as accountability at the national level is concerned.

In chapter 17 Ogonnaya and Lamin examine the emerging trends of power alternation and regime change in West Africa drawing on Nigeria, Ghana and The Gambia. They argue that the institutionalisation of participatory and multi-party democracy in West Africa has resulted in two fundamental political developments: a significant departure from the era of dominant one-party system and the emergence of vibrant opposition parties across the sub-region that are countering dominant ruling hegemonies in elections to form new governments. While this progress is noteworthy, they argue that democracy has to become developed and human-oriented to ensure security, the socio-economic well-being of the people and sustainable development.

In chapter 18 Owie and Ikhimiukor examine the potential of the Economic Community of West African States (ECOWAS) Community Court of Justice in the furtherance of human rights in Nigeria. Nigeria is a prominent member of ECOWAS, a sub-regional and intergovernmental body with vital institutions such as the ECOWAS Community Court of

Justice which has interesting jurisprudence that can shape both human rights protection and democratic growth in Nigeria. Considering the importance of the Court in human rights adjudication, Owie and Ikhimiukor highlight the challenge of enforcement of the decision of the Court. They recommend that if the efforts of the sub-regional Court are complemented through member states' compliance, human rights, governance and democracy will improve considerably.

In chapter 19 Durojaye and Adebajo draw lessons from the South African Constitutional Court decision in *Nkandla* in furthering democratic accountability. The authors observe that the judiciary and anti-corruption bodies continue to grapple with the challenge of political interference. Unlike the South African Constitutional Court, Nigerian courts are yet to demonstrate the necessary courage and assertiveness in dealing with high profile corruption among the executive and the legislature. While Nigerian courts on a few occasions have made important convictions against powerful politicians, these have been the exceptions rather the norm. The authors argue that there is a need for strong independent institutions that function with integrity in the fight against corruption as evidenced through the *Nkandla* case.

In all, the contributions in this book suggest key topics of interest for scholars and practitioners committed to studying or enhancing human rights, good governance and democracy in Nigeria. They do not merely intend to inform present and future discussion on the way forward. They do not only represent the voices of authors who are experts in their fields. More importantly, they are a reflection of voices that have never stopped redreaming a new Nigeria.