

JUSTICE AS FAIRNESS: JOHN RAWLS AND A JUST STATE OF AFFAIRS: IMPLICATIONS FOR POLITICAL STABILITY IN NIGERIA

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Abstract

This paper recognizes the need to understand the political economy of Nigeria particularly the absence of justice in order to understand the root causes of its many ethnic, religious, political and economic problems which have fueled political instability in the country. Nigeria is a pivotal country in Africa and the pressures weighing on her could literally fracture the state along already existing deep fault lines and destabilize Africa if the lack of justice in the administration of the country is not addressed. It is in the light of the above that this paper explores John Rawls radical conception of justice as fairness to address the issue at the heart of the country's lingering political instability. If for Rawls, justice is the first virtue of social institutions and the distribution of goods, the primary domain over which it operates, then the need to maintain a just state of affairs becomes imperative in order to stave off the impending doom in Nigeria. The paper makes the claim that the single most potent cause of political instability in Nigeria is the lack of justice which successive governments have perpetuated. This has manifested in the form of nepotism and clannishness, attachments to primitive sentiments such as religion and ethnicity, partial and compromised judicial authorities selling justice to the highest bidder, abuse of human rights, lack of tolerance, gender inequality and so on.

The paper, therefore, in agreement with Rawls recommends among other things the adoption of a just constitution which satisfies the principles of justice and leads to just and effective legislation.

Keywords: Justice, Political instability, Ethnicity, National wealth

Introduction

Nigeria like many African countries is no stranger to political instability. Since independence in 1960, the country has wobbled from one political problem to another and continues to pass through series of conflicts and violence. The history of the modern Nigerian state has been that of turbulent, contentious and often violent politics. The current democratic dispensation is no exception. The Boko Haram insurgency in the North East is more than a decade old and continues to destabilize the country, drain state finances and security forces and increase food insecurity. The "Resource Control" conflict in the Niger Delta has been intermittent and continues to destabilize the population, breed environmental problems and prompting political and economic instability. Attacks on farming communities by murderous herdsmen in most parts of the north particularly the middle belt region have caused increasing casualties and displacements in those areas. In the South East and South West, the Biafran and Oduduwa agitations for self-determination have again brought to fore the "National Question" particularly that of "non negotiability of Nigerian unity" while armed bandits engage in deadly planned attacks on communities in the North West, abducting and killing vulnerable villagers and causing widespread population displacement. And in all of these situations, the state security forces have continued to use military responses, often violating human rights, and sometimes counterproductively leading to further escalations in violence.

Gaining entry into the corridors of power in the country has continued to cause conflicts resulting from rivalry and suspicions among the various ethnic and religious groups and these have culminated in political instability in the country. The

country is still being affected by the system of injustice and oppressions handed over by the colonial masters. These conflicts have weakened institutions of the state such as the military and other security agencies, the judiciary and the legislature, the electoral body INEC and so on. This has in turn affected national development. This is despite the abundant natural and human resources that abound in the country. Although the country gained independence in 1960, the struggle for enduring national development and political stability has remained elusive. This may not be unconnected with the stormy political and social conditions in the country manifested in poverty, corruption, injustice, favouritism and discrimination based on ethnic and religious identities. The country's history since independence has been tossed by political tumult with about 6 military coups and autocratic governments sandwiched between short-lived democratically elected governments, four different republics and a poor human right record.

Claude Ake (1995), paints a gloomy picture of Nigeria as not developing. According to him, "Decades of efforts have yielded largely stagnation, regression or worse. The tragic consequences of this are increasingly clear: a rising tide of poverty, decaying public utilities and infrastructures, social tensions and political turmoil, and now, premonition of inevitable drive into conflict and violence." Clarence Boucat (2013), notes that "the root cause for these and other problems may be the result of the political economy of Nigeria and the resulting centrifugal and centripetal forces that hold Nigeria as a unified state in the balance." As a result, Nigeria tethers on the edge of state failure through the negative interaction of competing economies, politics and societies and the resulting rampant corruption and ossified fault lines capable of splintering the state along ethnic lines. Christopher Clapham draws attention to the inherent challenges of state maintenance in weak societies and identifies structural and contextual variables as factors enhancing the vulnerability of most African countries like Nigeria (2012).

Ake specifically identifies two major governance issues at the

root of Nigeria's developmental challenges. One is the lack of participation and consensus-building which Mayer et al (1996) and Kesselman et al (1996) describe as the lack of national community. Meaningful development and political stability are only possible where the citizenry is united. Where this is lacking “well-meaning development projects are regarded with suspicion, indifference or even hostility and at best, as an exploitative resource, something to be taken advantage of rather than something to be committed to.” (Ake, 1995). Secondly and closely related to this, is the lack of accountability and transparency. This has a grave effect on development, as corruption and inefficiency are concealed; as observed with the spate of abandoned projects. The African State, according to Ayittey “has evolved into a predatory monster or a gangster state that uses a convoluted system of regulations and controls to pillage and rob the productive class-the peasantry. It is common knowledge that heads of state, ministers, and highly placed African government officials raid the African treasury, misuse their positions in government to extort commissions on foreign loan contracts, skim foreign aid, inflate contracts to cronies for kickbacks and deposit the loot in overseas banks. The very people who are supposed to defend and protect the peasants' interests are themselves engaged in institutionalized looting” (2006).

These governance issues have produced a baneful structure in an environment that engenders instability in the political system as the people yearn for the elusive dividends of good governance. This paper makes the claim that many of the political and social crises that have bedeviled the country since independence can be located in just one factor: the absence of justice. No doubt, the Nigerian governance system has perpetuated injustice that has bred vices such as hunger and poverty, poor health, insecurity, vulnerability, lack of personal and professional development opportunities among the poor. In the last few years, policies that widen the income gap and perpetuate hunger and starvation in the country, promote ethnic

and religious particularism and superiority have been adopted by the Nigerian government. The proscription of the Indigenous People of Biafra (IPOB) as a terrorist group and the freedom allowed murderous herdsmen to roam the length and breadth of the country unleashing mayhem is one such policy. Others include the unjust concentration of the headship of the security agencies in one region and one religion in the country while excluding the other region and religions, the refusal of many state governments to implement the National Minimum Wage Law. This has engendered mistrust, rivalry and suspicions among the various nationalities fueling political instability in the process. For a country that pledges to uphold freedom, equality and justice and consolidate the unity of her people, that is not acceptable. In agreement with John Rawls, therefore, the paper submits that since citizens are free and equal, the society and the process of governance should be just and everyone should get his due by virtue of his participation in the citizenship of Nigeria. Citizens should relate to each other as equals within a social order defined by reciprocity and not the unjust status hierarchies prevailing in Nigeria today.

Justice: Real Meaning and Nature

Justice as a political concept is beset with political controversy and is confronted with the problem of a precise definition. Johari (2012), points out that three major difficulties account for this problem of definition. First are the different meanings assigned to it at different times and different places and so its implications vary from man to man on account of their varying interpretations. The second difficulty is the dynamic nature of justice which implications change with the passage of time. The last but by no means the least difficulty is the problem of reconciling the abstract notions of justice with its practical manifestations. For instance, notions of justice such as divine justice or moral justice will not be conformable to any set of empirical standards and for this reason, not capable of practical application. Thus, Potter (1951), affirms that "most men think they understand the meaning of justice, but, in fact, their notions

prove to be vague.” Similarly, Heywood asserts that no settled or objective concept of justice exists, only a set of competing concepts (2004).

Undoubtedly, the idea of justice has somewhat had a long and contentious history as its application differs in every culture. The Ancient Greek Philosophers set out early theories of justice. Aristotle for instance, in the *Nicomachean Ethics* Book V, Chapters 1-2 distinguished between 'universal' justice that corresponded to virtue as a whole and 'particular' justice which had a narrower scope. Advocates of Divine Command Theory or the Revelationists have said that justice issues from the execution of God's command and will and whether the command is individualistic or universal is quite irrelevant to them. In the 1600s, philosophers such as John Locke said that justice derives from natural law while Social Contract Theorists like Thomas Hobbes and the aforementioned Locke derive justice from the mutual agreement of everyone while entering into a political society. The Utilitarian philosophers such as John Stuart Mill locate justice in the best outcomes for the greatest number of people, egalitarians or equalitarians place equality at the heart of justice and derive from this ultimate ideal their standards about it. Libertarians tend to measure everything by the yardstick of liberty and oppose as unjust steps intruding on liberty and the Authoritarians regard leadership as the principle of highest value. For them, to follow leadership is just and to counteract it is unjust.

Heywood (2004), contrasts justice with virtues with which it is often confused namely 'fairness', 'rightness', 'morally correct.' While he admits that justice is a moral or normative concept, however, justice does not mean 'moral.' He says it demotes a particular kind of moral judgment, in particular one about the distribution of rewards and punishments. It is he says, about giving each person what he or she is 'due', though it is difficult to define precisely what the due might be. Justice according to Asirvatham and Misra (2009), is the general and controlling idea

of the right and the just we feel that the law of the state ought to express.

Justice has many dimensions namely: legal, political, social and economic. The legal dimension covers the positive laws. Positive law which as the declared will of the state is the most obvious dimension of justice. It includes customary law as well as statutory law and together constitutes the general body of rules recognized and enforced, and in that sense imposed by the courts. The political dimension on the other hand, is concerned with actual policies through which the political process realizes the norms of justice. It desires that the people participate in their political life in a free and fair manner. Basically, political justice requires that the state must protect and preserve certain valuable rights of the individual so that he may develop his personality as a citizen and thereby contribute his share to the welfare of the political community. To realize these, it is important to have a just constitution, strong and independent parliament and judiciary which will give shape to the legal dimension of justice. Social justice requires the elimination of all kinds of discrimination and privileges based on birth, sex, creed, ethnicity and race etc., while economic justice requires that justice is to be discovered in the economic structure of a given society and involves the elimination of exploitation and equitable distribution of national wealth. This was particularly promoted by utopian socialists, anarchists, Marxists.

Rawls on Justice: A Redistributionist Plea for Justified Inequalities

John Rawls book *A Theory of Justice* as believed by his admirers, puts him in the category of great political and social theorists like Plato, Kant and Mill. The book is a developed form of what he earlier wrote in his papers beginning with his "Justice as Fairness" published in 1958. One of the most outstanding features of his theory of justice is its rejection of the utilitarian arguments of Bentham and its substitution with an alternative moral perspective in harmony with the idealism of Kant. In his

view, Hume and Bentham's arguments are inconsistent that they may serve to justify unjust social institutions like slavery. However, justice in his view, is the first virtue of social institutions and the distribution of goods the primary domain over which it operates. The utilitarian argument is also not compatible with stability as it conceivably requires that some be made wretched in order to make others very happy indeed (Rawls, 1971). It is also outstanding in the way it is able to revitalize the trend of normativism relentlessly overshadowed by the champions of empiricism, neo-empiricism and trans-empiricism.

While intuitionism left little for individual's judgment guided by his reason. In their place is social contract which allowed for the separation of justice – the right, from the notions of what would produce the most good. They should be separated because there can be no natural agreement in modern states over competing ideas of the good. The virtue of justice is that it creates the possibility for competing ideals of the good to coexist within a relatively stable political order - which can be termed as a 'well-ordered society'.

3. Defining Justice

To Rawls, justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical, must be rejected if it is untrue; likewise, laws and institutions no matter how efficient and well-arranged, must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. Justice entails well-ordered society of free citizens holding equal basic rights and cooperating within an egalitarian system.

4. **Well-ordered society**

A well-ordered society is a society designed to advance the good of its members and effectively regulated by a public conception of justice. It is a society in which everyone accepts and knows that the others accept the same principle of justice and the basic institutions satisfy and are known to satisfy these principles.

5. **The conditions for the contract**

The following are the four conditions that Rawls advocated for the successful conduct of a contract leading to the formulation of the basic principles of justice for a well-ordered society.

- i. **Circumstances of justice' or 'natural fact:** Under the influence of Hume Rawls considered that men are bounded by incomplete knowledge, limited attention and limited capacity of judgement – these conditions are 'natural', not artificial, alterable or modifiable.
- ii. **Original/ initial position:** According to Rawls, "... what would emerge from such a hypothetical condition would be those principles that free and rational persons concerned to further their own interest would accept in an initial position of equality as defining the fundamental terms of their association."
- iii. **Veil of ignorance:** He also said: "Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. I shall even assume the parties do not know their conception of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance."

iv. **Maximin rule:** In such a condition as mentioned above, Rawls, under the influence of the 'game theory' of modern economics, expected the rational individual would rank alternatives by their worst possibilities. Those alternatives will be adopted the worst outcome of which is superior to the worst outcomes of the others. A person would choose for the design of a society in which even his enemy is to assign him his place.

6. **Basic structure of the society**

According to Rawls the principles of justice are applicable to the 'basic structure' of the society. The basic structure can be divided into two aspects:

- i) Those aspects of social system that define and secure the equal liberties of citizenship, e.g., political liberty, freedom of speech and assembly, liberty of conscience, freedom of thought, right to hold property, freedom from arbitrary arrest.
- ii) Those aspects that specify and establish social and economic inequalities, e.g., distribution of income, wealth and of authority.

Rawls also emphasized that there is no need for economic equality for implementing the principles of justice, but the need is for a pattern of economic distribution to the benefit of the least advantaged and as complete as possible openness of all positions of authority. Locke does not favour any economic system, to him, it depends on the 'traditions, institutions and social forms of each country'.

The trend and catalysts of political instability in Nigeria

An examination of the meaning and nature of political (in)stability would be most appropriate in understanding and situating the trend of political instability in Nigeria within a proper context. Alesina et al (1992) defined political instability as

a propensity of a change in the executive by “constitutional” or “unconstitutional” means. Zahid Hussain opined that the standard definition of political instability is the propensity of a government collapse either because of conflicts or rampant competition between various political parties. However, Olugbade (1992) noted that conditions and causes of political stability have remained a problem due to different ideological and theoretical perspectives from which they are studied. Thus, that also means that there is no clear conceptualization of the meaning of stability or instability. That is why while Claude Ake and David Sanders locate political instability in people's behaviour and hence dismiss anything ethnocentric in its definition. On the other hand, Dowding and Kimber see stability as being dichotomous and hence no need to measure the degree of stability or instability. For them, a system is either stable or not stable and so no need to measure the degree of its stability (1983).

In Nigeria, political and (social) instability has been a recurring decimal since before independence in 1960. Although, Nigeria is regarded as the giant of Africa and a beacon of hope for Africa, she has struggled to establish and maintain a culture of political stability and orderly political procedures. Nigeria is characterized by a high degree of ethnic divergence with an estimated 250 ethnic groups with two dominant religions and a countless number of other animist groups. The contestation for power is replete with violence and conflicts occasioned by rivalry and suspicions among the various ethnic groups. These have culminated in political instability across the entire country such that the country is on the verge of collapse and failure.

From the pre-independence era to the present era, Nigeria is still battling with injustice and oppressions resulting largely from faulty colonial arrangements. The resultant effect are weak national institutions designed to benefit only a privileged few and incessant and often times dangerous struggle for political power. More distressing as Ogu and Areji (2022), point out is promotion of politics of ethnicism, sectionalism rather than of

inclusion by the central government in the last few years which has widened the already existing social gaps among the different peoples of Nigeria. This has weakened not only the capacity of citizens to contribute to national development but also their ability to live meaningfully despite the abundant natural resources in the country.

Political instability first reared its ugly head in the country in the first few years following independence, precisely in 1962 with the Western Nigeria leadership crisis caused principally by personality clash, clash of ideology, power struggle, factions in decision making and so on and the Western Nigeria election crisis of 1965 which eventually led to the first military coup in January 1966 and the counter coup in July 1966. While these events have unpredictable and unpleasant experiences, they pale into insignificance when compared with the Civil War that lasted between 1967 and 1970 claiming the lives of more than 3 million people.

Since the first military coup that took place in January 1966, the country has witnessed about 6 military coup d'etat which have always set the country into political turmoil. These coups have done nothing but heighten the mutual distrust among the various ethnic groups in the country and this has eroded confidence in the national leadership. The cancellation of the June 1993 presidential election regarded by many as the freest, fairest and most credible election in the country since independence by the military government of Ibrahim Babangida almost tore the country apart. Many lives were lost in the crisis that followed the cancellation and the country entered the bad books of the international community. These security issues are in addition to a series of other problems that have bedeviled the country particularly in recent years, including rising levels of poverty that has seen Nigeria rated as the World Capital of Poverty, violent crimes and corruption amid an increasing sense that central government, in many places is struggling to govern (Beaumont, 2022).

In Nigeria, political economy is the most important but not the only factor that explains Nigeria's current political instability and turmoil. Because, they are fundamental to the well-being of the people, the distribution of goods and economic gains is the most volatile of Nigeria's problems. A combination of political economic factors, including but not limited to social apathy, economic deprivation and political frustrations have helped to widen the gulf existing among the various groups in the country. Indeed, Bouchat (2013), says the frequent and often bloody turmoil being recorded in Nigeria, is often a result of manipulated groups clashing for a greater share of an inadequately sized and unevenly distributed pie. He identified the lack of a sense of nationhood as one of the causes of political instability. This he says, is a result of the inability of the country's leaders to meld a unified nation out of the fragmented geographic and ethnic components in Nigeria. Isife (2020) notes that the interpretation, understanding and application of the political doctrines of the various ethnic groups have further helped to make the country unstable. These managements he says, create antagonistic tempos which fuel political instability in the country.

Etim and Ukpere (2012), blames the militarized political culture which is a direct heritage of colonial rule for political instability in the country. This manifests in the political behaviour of successive Nigerian governments who use coercion and force rather than dialogue for settlement of political conflicts, disregard for rule of law and gross violation of human rights. This is exacerbated by the unhealthy dominance of ex-military men in politics.

One factor which has been fingered by many scholars as contributing to political instability in Nigeria is the unhealed wounds of the Civil War and the non-reintegration of the Igbo into the mainstream of the Nigerian political structure. According to Chinweuba and Ezegwu (2017), successive Nigerian governments have continued to marginalized the Igbo

nation making them feel insecure and unwanted in the country. Achebe (2012) corroborates this reality when remarked that resentment of the Igbo is one issue Nigerians would probably achieve consensus on. This attitude has pushed the Igbo to the fringes of the Nigerian politics leading to various kinds of agitations and secession movements such as Indigenous People of Biafra (IPOB), Zionist Movement, Movement for the Actualization of the Sovereign State of Biafra (MASSOB).

The defective political structure of the country is another factor fueling political instability in the country. Nigeria is a federation, a structure which is a product of its colonial heritage. The country has 36 states and a Federal Capital Territory with 774 local government areas with an all-powerful central government presided over by a president wielding enormous powers including over most of the country's resources and revenues. Attempts to restructure the country to ensure devolution of powers to the states and even distribution of revenue among the constituent units have been frustrated by politicians feeding fat on the resources of the country. According to the International Crisis Group, many of Nigeria's internal conflicts are manifestations of the structural and political flaws of its federalist framework because the federal system has been chronically manipulated, often promoting regional interests over national ones (Lewis, 2006).

Implications of Justice as Fairness for political stability in Nigeria

Rawls' Justice as Fairness contains two principles of justice which self-interested and rational individuals would normally choose when their veil of ignorance is lifted. First is the principle of equal liberty by which he meant that all citizens have equal rights to basic liberties, which entails freedoms of conscience, expression, association, due process of law and democratic rights. Included among these rights also is the right to personal property though he excluded the absolute right to unlimited personal properties from these basic liberties.

These rights are already enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria, although they have been obeyed more in the breaches than in compliance. The democratic experience of Nigeria has been fraught with gross violations of the rights of Nigerian citizens. From abuse of the right to human dignity, notably in the inhuman treatment and torture of Nigerians by the Nigerian Police to prolonged detentions without trial, from abuse of the right to peaceful assembly, most exemplified in the October 20th, 2020 killing of unarmed protesters at the Lekki Toll Gate in Lagos to forced evictions, from attack on press freedom which the Nigerian Broadcasting Corporation (NBC) has become notorious for in recent years to the killing of innocent Nigerians by terrorists and bandits, it has been a tale of woes for Nigerians under the current democratic dispensation.

Rights are fundamental because they have been enshrined in the constitution which is supreme and which provisions are said to be binding on all authorities and persons throughout the country, it behooves on the government to take measures to protect these rights and punish any violation of such wherever they may occur.

The second Rawlsian principle of justice is the principle of equality which holds that social and economic inequalities are to satisfy two requirements namely (a) that they are attached to offices and positions to all under conditions of fair equality of opportunity and (b) that they are to be to the greatest benefit of the least advantaged members of the society (the difference principle). By offices and positions, Rawls meant the best jobs in private business and public employment. These jobs should be 'open' to everyone regardless of ethnicity, sex or social background. Thus, all individuals should have fair equality of opportunities and equal chance as everybody else of natural ability (Rawls, 1971).

In Nigeria, the privileges and benefits attached to the Nigerian citizenship are most often dispensed with according to ethnicity, religion and social background. How else can one explain that no Igbo of South East extraction has been found worthy and competent to hold a national command position in any of the military or para military agency in the country since the administration of President Muhammed Buhari started in May 2015? How does one explain that more than 80% of these positions are occupied by Northern Muslims contrary to the provisions of the Federal Character Principle as contained in Section 14 (4 and 3) of the Constitution? How does one explain that the best jobs and positions in the country go to the political elites and their children leaving N-POWER, SURE-P and such other low paying empowerment jobs for the children of the poor?

How then, does Nigeria achieve order in order to ensure an enduring political stability? If the 1999 Constitution is the grundnorm of Nigeria's legal order, it means that justice must not only be dispensed with fairly but must also be seen to be so dispensed. Section 1 which states the place of everyone under the constitution and Section IV of the constitution that specifies the fundamental rights of Nigerians must be held sacrosanct. As Rawls noted "there must over time be a stable and just society of free and equal citizens profoundly divided by reasonable religious, philosophic and moral doctrines". This demands that the essential characteristics of Nigeria in terms of its cultural diversity should be respected.

Rawls' demand for economic equality for implementing the principles of justice is a demand for a just constitution that serves and protects the interest of every segment and region of the Nigerian society especially in the area of income distribution. It requires that workers and pensioners who have worked diligently and devotedly are paid their salaries and pensions promptly without owing them for months like some state governments are doing currently. They should not just be paid

promptly but handsomely too, in line with economic realities at any time. A situation where salaries of workers remain meagre while prices of commodities in the market skyrocket on daily basis does not promote economic equality. It also requires that contractors who have successfully carried out public contracts are paid for the work they have done.

The Federal Character Principle should be applied in revenue allocation. Disparities in income, social and economic opportunities are traceable partly to natural endowment, partly to the formula for distribution of national resources and partly to historical legacies of colonial administration. This is because any heterogeneous society like Nigeria without a justifiable formula for sharing resources between groups is bound to experience wars and all sorts of socio-economic slouches. It is in recognition of the importance of fair and equitable distribution of national cake to ensure political and economic stability in Nigeria.

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