

## INTERROGATING IMPACT OF CORRUPTION ON NIGERIA'S SOVEREIGNTY WITHIN THE FRAMEWORK OF MARXIST PHILOSOPHY OF LAW

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### Abstract

With the claws of corruption in virtually every aspect of Nigeria's national life, index and taxonomy of corruption lost account of how deeply this vice has eaten into all that sovereignty imports under International Law. Interrogating effect of corruption from the perspective of Marxist Philosophy of Law therefore, the paper, by doctrinal approach found that despite obvious gaps in Marxian dialectics over the years it ought to be taken more seriously in the reality of Nigeria's socio-economic-political situation where, as a result of total failure of rule of law arising from corruption, the Nigerian State is withering away to the precipice of a failed State in the reckoning of contemporary world. The paper thus recommended that natural law as a conscience-directed philosophy should re-evolve to give Nigerian laws greater fortitude to contain, to re-engineer the Nigerian sovereignty, both domestically and before the International Community.

**Keywords:** Interrogation, Corruption, Sovereignty, Marxism, and Philosophy of Law.

### 1. Introduction:

Corruption no doubt is reckoned as a major challenge to social, political and economic development of every country of the world but the defiance of extensive legal framework by this menace in Nigeria and its threat to her sovereignty marks corruption out as the greatest threat to the nation.<sup>1</sup> Its impact on educational, health, political structure, the economy and every aspect of Nigeria's social structure calls to question the sincerity of the entire political and administrative organogram, including the philosophy upon which the Nigerian legal order is built.<sup>2</sup> With large volume of literary scholarships on the causes and possible solution to the endemic nature of corruption in Nigeria, without any remarkable result to show for all such efforts, this paper has chosen to go beyond the workings of corruption, to interrogate efficacy of the legal theory upon which anti-corruption measures are pursued in Nigeria and the jurisprudential examinations of its impact on the Nigerian Nation State.

Having regards to the enormity of its control over every aspect of Nigeria's existence as a nation State, the paper particularly interrogates the impact of corruption within the framework of Marxist Philosophy of law, to establish whether or not this philosophy that

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<sup>1</sup> MO Okunola, A Umaru et al, 'Manifestations and Impacts of Corruption on Democratic Governance in Nigeria' <<https://www.ajol.info/article/view>> accessed on 12-03-2021.

<sup>2</sup> RA Udama, 'Understanding Corruption in Nigeria and its Implication to National Security and Sustainable Development' <<https://www.iostjournal.org>> accessed on 12-03-2021.

has been relegated to the background by contemporary jurisprudential thoughts may be reckoned as relevant to the peculiarities of the Nigerian situation. This philosophy of law is based on the doctrine of Karl Marx and Frederick Engels but Marx' elaborate force in diversifying teachings on the subject to historical materialism, economic determinism, the issue of class, State and the law, point him out, more as the father of Marxist school of jurisprudence.<sup>3</sup>

As a materialist, Karl Marx, the father of Marxist philosophy of law found the principles of development he sought in Hegelian dialectics although he rejected some of Hegel's ideas, including his idealist philosophy and substituted materialism.<sup>4</sup> All the same, Marx' centralization of economic factor in social class stratification; the idea that law is subsidiary and never autonomous of economic factor; perception of the State as instrument of class oppression and the State as a contradiction to the real interest of the society and which, along with law, must be abolished some day, constitute areas of contention against his philosophy of law, for which it is hardly given any serious attention in contemporary world; dominated by the idealism of positivism and feigned democratic values.

However, this paper, by doctrinal approach takes another look at this philosophy with all its thesis and antithesis, to decode its relevance on how its teachings on democratic superstructure play out in reality. In this regard, the paper employs the peculiarities of the Nigerian political situation, to establish or otherwise, how far situation of the nation plays into the thesis and antithesis of Marx' idea of law. The significance of this paper is emphasized by how resilient corruption has been to several legislations in Nigeria, thus threatening her continued existence as a sovereign nation. The paper particularly interrogates the wild impact of corruption on every aspect of Nigeria and Nigerians and how natural law philosophy could be employed to bridle the nation from its speedy devolution to a failed State status.

## **2. Conceptual Clarification**

For avoidance of doubt, the perspective from which some of the main concepts in this paper are employed is clarified at this point. For brevity, however, only Corruption, Sovereignty, and Marxist Philosophy are clarified here while the rest are examined as part of the main discussion in this paper.

### **2.1. Corruption**

Corruption not being peculiar to any particular nation is a global scourge which is differently perceived by various societies but its manifestations and impact bear global outlook, thus giving rise to seemingly familiar definitions across the board. As a matter of global concern, it is defined to include bribery, fraud and other related offences, including any action or commission initiated by any member of an organization against the rules, regulations, norms

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<sup>3</sup> JN Samba, *Fundamental Concepts of Jurisprudence* (Bookmakers Publishing, 2007)99

<sup>4</sup> *Ibid.*

and ethics of the organization, the purpose of which is to meet the selfish ends of such member.<sup>5</sup> According to International Monetary Fund and World Bank, it is the abuse of public office for private gains; an anti-social behaviour contemning improper benefits, contrary to legal and normal norms undermining capacity of constituted authority to secure the welfare of her citizens.<sup>6</sup> To Gray and Kaufmann, corruption 'include bribery and corruption, necessarily involving at least, two persons and other malfeasances that a public official can carry out alone, including fraud and embezzlement'.<sup>7</sup>

Because of its elusive manifestation in various societies, its import is bound to differ from one society to the other but whatever the differences in the presentation of corruption by various scholars however, the manifestation of this global scourge is virtually the same all over the world. In its intrinsic workings therefore, corruption manifests in form of abuse of office and privileges, low level of transparency and accountability, inflation of contracts, misappropriation, advance fee fraud, collection of illegal toll, drugs and arms smuggling and the like.<sup>8</sup> In Nigeria, it is clouded in various local expressions like financial malpractices, *egunje*, dash-dash, gratification, brown envelopes, palm greasing, ground softening, settlement, below the table, appeasing the gods, undocumented payment, *kick-back*, shady deals, 10% load, secret-secret and the like.<sup>9</sup> Its tentacles extend to government activities by appropriation of public assets for private use, embezzlement of public funds by politicians and high ranking civil and corporate servants. It manifests in the running of every aspect of national economy as in the case of fake drug manufacturing and importation, adulteration of foods, drinks and cases of piracy and fraud at all levels of national life.<sup>10</sup> It is identifiable in form of illegal, unethical and unauthorized exploitation of natural resources of the nation and grossly too, in the electoral system in form of electoral manipulations and other irregularities.<sup>11</sup> Its spread to every aspect of the nation's life, including politicians, law enforcement agents, civil and public servants and even organized and liberal labour sector justifies description of corruption as a *demon* or systemic vice, especially in Nigeria where even religious organizations are as soiled in this vice, as any other sector.<sup>12</sup>

Today, corruption has so overwhelmed and damaged what used to be referred to as African cultural value of every one being responsible to all, or communal living to the extent that honesty in any public office in Nigeria has become irrational, thus crippling all anti-

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<sup>5</sup> Corrupt Practices and Other Related Offences Act, 2000, section 2

<sup>6</sup> S Osoba, 'Corruption in Nigeria, Historical Perspective' Rev. Afr. Pol. Econ. 23 (69) 317 and 386.

<sup>7</sup> CW Gray and D Kaufmann, 'Corruption and Development' <<https://www.imf.org/1998/03/pdf>> accessed on 12-03-2021

<sup>8</sup> KO Amah, 'Attacks on Justice: Federal Republic of Nigeria' <<https://hrmars.com/index.php/pages/detail/IJARBSS>> accessed on 12-03-2021.

<sup>9</sup> Amah, *Ibid.*

<sup>10</sup> M Page, 'A New Taxonomy for Corruption in Nigeria' <<https://www.justrac.org/aneu-taxonomy-for-corruption...>> accessed on 12-03-2021.

<sup>11</sup> *Ibid.*

<sup>12</sup> KO Amah, *op.cit*

corruption measures.<sup>13</sup> Indeed, corruption has become so endemic that even at family level, children habitually and tactically ask for gratification as pre-condition for carrying out their normal domestic chores.

Some authors allude corruption to African notion of family inter-dependence which allusion this paper vehemently rejects because that is an allusion to laziness as African vice.<sup>14</sup> In countries where corruption is as rampant, it is not as much of expectation of help from public office holders as much as lack of affirmative character of sort. The underlying basic principles of social organization anywhere in the world should be an understanding that everybody must be allowed to seek his own good, through legitimate individual efforts, with the rationale that the principle would guarantee the common good of the larger populace.<sup>15</sup> This principle forms the basic foundation of every social order, and the ultimate consideration for economic, political, social and cultural or whatever activity of every society. However, where survival at any cost and by any means is implied in the individualized type of social organization, not everybody can successfully seek his own good, let alone pursue and accumulate wealth.<sup>16</sup> Thus, in reality, it is only a tiny fraction of such society and mostly, those with direct or indirect link with the state functionaries that are able to seek their own good; to accumulate enough wealth, to further appropriate State power and resources, by which they exploit the labour and sweat of the majority, unhampered. Such negligible few ignore laws, rules and procedures to hypocritically project themselves as seeking the good of the society.<sup>17</sup> This development provides a fertile ground for corruption in every sector of each society.

In the Nigerian situation, the over concentration of power at the centre under the Nigerian federal structure, accentuated by the long years of military rule has continued to ensure that corruption thrives in the country.<sup>18</sup> Under such arrangement, government is the focus of power in the country, determining the level and nature of economic activity. In short, the government is the economy, the greatest industrial and agricultural power, the biggest contractor and sole owner of natural resources. It is the largest employer and financier, and determines the rule of the game, in form of regulations with which all economic activities

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<sup>13</sup> O Alege, 'Effects of Corruption on Economic Development in Nigeria' <<https://www.longdorm.org/articles>> accessed on 12-03-2021.

<sup>14</sup> LU Odo, 'The Impact and Consequences of Corruption on the Nigerian Society and Economy' *International Journal of Arts and Humanities (IJAH) BahirDar-Ethiopia* vol.4(1) 2/no.13, January 2015, p.177-190.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> GE Chinweuba, 'Culture and Corruption: A Critical Analysis of the Basis of Nigerian Depraved Experience' <<https://www.ajol.info/article/view>> accessed on 12-03-2021

<sup>18</sup> BU Deezia, 'Gift, Bribery and Corruption in Nigeria: A Philosophical Re-Interpretation' *London Journal of Research in Humanities and Social Sciences* <<https://journalpress.com/gift-bribery-a>> accessed on 12-03-2021.

must comply, such as interest rates, land tenure, service fees, import, import quotes, pricing, among others.<sup>19</sup>

Where bureaucracy is under constant pressure from numberless profit seekers, all clamouring for permits, contracts, certificates, import licenses, as it is in Nigeria, the temptation becomes overwhelming to beat due process for one's desired result.<sup>20</sup> Under such a circumstance, direct involvement of government in economic activities becomes an invitation for corrupt practices. These factors have severally and collectively provided fertile grounds for sharp practices in both public and private organizations, with serious impact and consequences on the Nigerian society and economy. In Nigeria, impact of corruption has gone beyond traditional areas of complaints of several nations to the point of threatening everything that gives the country the reckoning of a sovereign State, thus accounting for the significance of this paper which interrogates how far impact of corruption could be said to threaten continued existence of Nigeria as a nation-state, within Marxian dialectics and philosophy of law.

## 2.2. Marxist Philosophy of Law

Marxist philosophy of law which is essentially sociological in nature arose from Karl Marx perception of law, from the perspective of the role law plays in the society.<sup>21</sup> Influenced by scientific advancement in his time and inspiration from success of positivist challenge of natural law philosophy that dominated the world for centuries, Karl Marx challenged the indispensability of law, which he saw as a reflection of economic substratum of each dispensation.<sup>22</sup> Looking at the society as a system focused on economic development which he referred to as the substructure of the society, he believed that every other thing in the society, including law, religion and all other political institutions were only superstructures built upon economic trend, and no more.<sup>23</sup> As a materialist, he built his perception of the workings of law on Hegelian dialectics on contract, ownership and crime.<sup>24</sup> It is from such materialist dialectics of Hegel that Marx built his ideal of distribution of property in the society, not necessarily on the basis of equality but on the indices of capacities, abilities, environment and placement.<sup>25</sup> He built on Hegel's philosophy on wrong and punishment, as a tool for restoring sanity of the offender as opposed to modern deterrent theory of punishment. To Marx, stepping a little towards far right from the dialectics of Hegel, the political class does not really represent interest of the civil society but because they belong to a political organization as a mask of class of interest since, as he argued, it is not the consciousness of men that determines

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<sup>19</sup> Odo, *op.cit.*

<sup>20</sup> *Ibid.*

<sup>21</sup> Samba, *op.cit.*

<sup>22</sup> JM Elegido, *Jurisprudence* (Spectrum Books Limited, 2002)69

<sup>23</sup> MT Ladan, *Introduction to Jurisprudence* (Malthouse Press Limited, 2010)65

<sup>24</sup> Samba, *op.cit.* at 100

<sup>25</sup> *Ibid.*

their being but their social being.<sup>26</sup> He emphasized the central role which economy plays in social class stratification even when there seem to be other variants. In his belief that history is made up of class struggles through self-consciousness, Marx stressed that law as it is, is subject to economic factors, thus informing his classification of a capital society into two main hostile camps of the bourgeoisies and proletariats.<sup>27</sup>

To Marx, the State is only an instrument for the support and protection of the bourgeoisie as the dominant class, using the law as machinery for the promotion of their interest. For instance, he saw the law of contract as an illusion because of social inequality that must tilt the balance of justice in all transactions to the dominant class.<sup>28</sup> He berated ideals of communism represented as “from each according to his ability, to each according to his work” as a farce which he insisted the society must resist and translate as “from each according to his ability, to each according to his needs” when the State, as instrument of class oppression and contradiction to the interest of the larger society fizzles into extinction.<sup>29</sup> That was why Marx’ greatest ideal was that at a particular point of society evolution, law and the State will wither out for a new dawn, towards improvement of the condition of the poor and working class.<sup>30</sup>

In this paper therefore, Marx’ philosophy of law is employed only as a tool in assessing impact of corruption on the Nigerian State, to know how far its status as a State could be said to have been eroded and what must be done to re-engineer the nation from the path of “withering away” in the thesis and antithesis of Marxist philosophy of law.

### 2.3. State Sovereignty

A discussion bordering on sovereignty would normally draw on scholars like Hobbes, Rousseau, John Locke, Bodin, Laski, Austin and several others, with their differing views on the subject. However, these scholars agree on basic principles on the concept, including its historical background and its evolution that rubbed-in upon American Constitutional history and French Revolution.<sup>31</sup> In any case, the discussion here borders on the import of this concept in relation to impact of corruption on Nigeria’s sovereignty, thus making definition and explanation on the concept sufficient. It is in this regard sovereignty is understood, in political theory, to mean the ultimate overseer or authority,

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<sup>26</sup> MN Malik, ‘Karl Marx’ Dialectical Materialism Analysis’

<<https://www.researchgate.net/publication/33...>> accessed on 12-03-2021.

<sup>27</sup> S Moore, ‘Marx and the origin of Dialectical Materialism’ ‘Interdisciplinary Journal of Philosophy’ vol.14, 1971 (14) 420-429 <<https://doi.org/10.1080/00201747108601641>> accessed on 12-03-2021.

<sup>28</sup> C Malott, ‘What is Dialectical Materialism? An Introduction’ <[liberationsschool.org/what-is-dialectical...](http://liberationsschool.org/what-is-dialectical...)> accessed on 12-03-2021.

<sup>29</sup> CES, ‘Communism: Karl Marx to Joseph Stalin’ <[europ.unc.edu/ironcurtain/history](http://europ.unc.edu/ironcurtain/history)> accessed on 12-03-2021.

<sup>30</sup> Stanford Encyclopedia of Philosophy, ‘Karl Marx’ <[plato.stanford.edu/entries/marx](http://plato.stanford.edu/entries/marx)> accessed on 12-03-2021.

<sup>31</sup> Elegido, *op.cit* at 50

in the decision making process of the State and the maintenance of order<sup>32</sup>. This concept derived from the Latin word “superanus” meaning, the supreme power.<sup>33</sup> While Jean Bodin<sup>34</sup> alluded this concept to the ultimate power of the king over all others, including the feudal lords seeking a transition from feudalism to nationalism but Hobbes<sup>35</sup> alluded the concept to whoever possess the ultimate and absolute authority to declare the law. Rousseau<sup>36</sup> and John Locke<sup>37</sup> would rather see sovereignty from the perspective of social contract between the citizens and government by which the former, vested, not transfer, their political authority in an individual as a sovereign, in exchange for assurance of security of life, property and peace of the citizenry. This view found expression in the American Declaration of Independence in 1776 and endorsed in the French Constitution, in 1791.

Austin developed and took this concept further, alluding it to the ultimate power of the parliament, then regarded as supreme organ that enacted laws binding on others, excluding itself because, parliament could enact a man into a woman in the morning and change position by the close of the day if such position was found unfavourable.<sup>38</sup> Although Austin’s allusion to the parliament does not fit into modern notion of a parliament that is itself subject to its own laws, at least in terms of non-procedural laws but his position in presenting the sovereign as the final authority, self inclusive authority seem to aptly describe constitutional sovereignty of most constitutional democracies of contemporary world.

Under the Nigerian Constitution, sovereignty, at least in theory, belongs to the people. As the Constitution put it:

Sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority.<sup>39</sup>

How such provision plays out in its practical application in Nigeria is difficult to comprehend except that political office holders are expected to return to the electorate to renew their mandate on the expiration of their tenure. Whether such return for consultation and renewal of mandate plays out in practical terms is also determined by

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<sup>32</sup> S Besson, ‘Sovereignty’ <[opil.ouplaw.com](http://opil.ouplaw.com)>view>law:epil>law...> accessed on 12-03-2021.

<sup>33</sup> Britannica, ‘Sovereignty’ <[www.britannica.com](http://www.britannica.com)>topic>soverignty> accessed on 12-03-2021.

<sup>34</sup> J Bodin, ‘Internet Encyclopedia of Philosophy’ <[iep.utm.edu](http://iep.utm.edu)>bodin> accessed n 12-03-2021.

<sup>35</sup> Stanford, ‘Hobbes Moral and Political Philosophy’ <[plator.stanford.edu](http://plator.stanford.edu)>entries>hobbes-moral...> accessed on 12-03-2021.

<sup>36</sup> Rousseau, ‘The Social Contract: Terms’ <[www.sparknotes.com](http://www.sparknotes.com)>characters> accessed on 12-03-2021.

<sup>37</sup> J Locke, ‘Sovereignty and the Separation of Powers’ <[www.tandfonline.com](http://www.tandfonline.com)>doi>pdf> accessed on 12-03-2021.

<sup>38</sup> A Garg, ‘Austin’s Sovereignty Theory and its Relevance in Modern Indian Political and Legal Environment’ <<https://bit.ly/2Omkljip>> accessed on 12-03-2021.

<sup>39</sup> The Constitution of the Federal Republic of Nigeria, 1999 (hereinafter referred to as the Constitution) S.14(2)(a)

the index of a free and fair election which is a far cry from the electoral process in Nigeria, riddled with vote-buying, stuffing and rigging, with tacit complicity of corrupt judicial officials.<sup>40</sup> Furthermore, whether this makes the people the *grundnorm* of the Nigerian Legal Order or the Constitution as a documented approval of the people, summed as the *grundnorm* may not be very relevant to conceptual clarification here but fixing ultimate power somewhere outside the people in government is. Therefore, since sovereignty does not dwell in individuals in government, a *coup* against the people by the same people they purport to elect must be antithetical to whatever sovereignty represents. And when power devolves, improperly to where the *grundnorm* does not permit, the tendency is a misuse and misrule, and a defeat of whatever sovereignty represents.<sup>41</sup>

In an ideal situation, whoever operates on the mandate of the sovereign, expresses whatever sovereignty imports. Thus, for the legislature, every law they make as representatives of the people who are themselves the constitutional sovereign, express the sovereignty of the nation.<sup>42</sup> Without delving into semantics involved in various kinds of sovereignty, where sovereignty dwells within a particular political arrangement and the supremacy of the law as *grundnorm* against the State, sovereignty as a concept is understood in this paper from the perspective of political theory as a substantive term designating supreme, legitimate authority over some polity. In international law, either in the *de jure* or *de facto* parlance, it denotes exercise of power by a State.<sup>43</sup> It is employed here, more as a matter of legitimacy requiring recognition by International Community because, it is asserted within the framework of internationally recognized index, including binding laws, respect for rule of law, security, stability, sustainability, proper management of its economy and peaceful co-existence within International Community. This is the perspective from which Marxist Philosophy is interrogated in this paper to assess how far corruption may be said to have negatively impacted and probably eroded sovereignty of the Nigerian State, using Marxist Philosophy of law as benchmark.

### **3.The Nigerian State and Corruption**

Marx philosophy on economic determinism, class, State and the law has been criticized by several scholars from a perspective this paper would rather describe as an aberration to social realities of the time, especially in several corrupt countries, Nigeria in particular. No doubt, Marx engaged in several excesses, footed in day-dream, but that does not belie the realities of his observations on class, State oppression, use of the law by the dominant class and political machinery as instrument of management of State economy for the benefit of the bourgeoisie. For instance, in Nigeria, public funds and public investment,

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<sup>40</sup> TT Aver and WJ Orban, 'Judicial and Democracy: Issues in Contemporary Society' <[www.eajournals.org/uploads/ju...](http://www.eajournals.org/uploads/ju...)> accessed on 12-03-2021.

<sup>41</sup> Elegido, *op.cit* at 51-52

<sup>42</sup> *Ibid.*

<sup>43</sup> J Maftei, 'Sovereignty in International Law' <[journals.univ-danubius.ro/article/view](http://journals.univ-danubius.ro/article/view)> accessed on 12-03-2021.

including laws on security and their execution are all schemed towards the benefit of the political class.<sup>44</sup> While the common man is left vulnerable in the hands of hoodlums, kidnapers and murderers in Nigeria, members of the elitist political class are granted police protection to the last bit of their family members. When armed robbers visit the vulnerable in Nigeria, police never turn up, either because they complain of lack of serviceable vehicles or fuel to mobilize to site.<sup>45</sup> Where they ever turn up at all, it is usually long after the marauders must have completed their operation and vacated the site.

For several years, Nigerian government claimed to combat Boko Haram insurgents, resulting in Billions of dollars in foreign debt.<sup>46</sup> While government claimed the insurgents have been decimated but in recent years, it is becoming clearer that with complicity of the political class, the insurgents only decentralized into local communities where they maim, kidnap, decapitate and loot the lean means of survival of the suffering masses while government claimed again and again that “we are on top of the situation”. In a depressed economy resulting from penchant for greedy corrupt practices, with overwhelming youth unemployment, it is difficult to fathom how the impoverished youths will not yield to the temptation of the political class to rig election and engage in all kinds of violent crimes to enthrone their political *god-fathers*. In a nation with peanut monthly salary that may not be paid several months, it is difficult to fathom how civil servants who are suppose to act as bridle to excesses of the political class will not compromise their integrity to measure up to expectations of their extended family members regarding their class in the society.<sup>47</sup> They definitely would, especially knowing fully well that the State, represented by the political class controls all machinery for monitoring, prosecution and persecution of corrupt practices, including civil servants who fail to “cooperate”. This no doubt, point to social imbalance emphasized by Marx thought on economic determinism and oppression of the proletariats by the bourgeoisies. In the last two decades, Governors of various States in Nigeria, including those who corruptly looted State treasuries without any infrastructural and human development to show for their tenure, resorted to passing pension laws that financially equated them with their serving successors.<sup>48</sup> These laws were quietly passed in collusion with State legislature who, expectedly benefited from such sordid arrangement in a country where

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<sup>44</sup> O Agbu, ‘The Nigerian State and Politics in the Fourth Republic’ <[codesria.org>IMG>pdf>I.electi...](#)> accessed on 12-03-2021.

<sup>45</sup> N Adegoke, ‘The Nigeria Police and the Challenges of Security in Nigeria’ <[www.orabanjbr.com/RPAMindex.php](#)> accessed on 12-03-2021.

<sup>46</sup> Y Kazeem, ‘Nigeria will Arrest its Ex-Security Chief for \$2Billion Arms Fraud while Boko Haram Ran Riot <[qz.com>Africa>nigeria-willarrest-its-e...](#)> accessed on 12-03-2021.

<sup>47</sup> GF Eke, ‘Corruption in the Civil Service: The Death of Effective Service Delivery’ <[www.ajol.info>ijah>article>view](#)> accessed on 12-03-2021.

<sup>48</sup> T Ademiluyi, ‘Pension for Former Governors’ <[www.thinlaylive.com>2019/11/30>pe...](#)> accessed on 12-03-2021.

over seventy percent of the population live below poverty line. This explains why Marx said statehood at any point is only an instrument of support and protection of interest of the dominant political class.<sup>49</sup> Quite unfortunately, the press that is suppose to monitor State management of public resources by the bourgeoisie is owned and run by the same political class, thus justifying Marx position that law is only subsidiary and never autonomous of economic factors. His emphasis on social stratification with history made up of class struggles seem to reflect the Nigerian situation in the estimation of the common man that whatever statehood and political appointments represent, is all about economic control as opposed to societal management.

Several scholars query Marx prediction of a revolution by which law and the State will be abolished.<sup>50</sup> They query the fact that some laws bordering on traffic and most part of criminal law are never economy-bias.<sup>51</sup> While feasibility of the State withering away may not be in sight in the immediate future but the scheming of Nigerian criminal laws towards securing economy of the bourgeoisies is not far-fetched.<sup>52</sup> No doubt, there have been other areas of class struggles as in the case of religious and ethic struggles in Nigeria but the economic base of such struggles have been traceable to economy or struggle for corrupt financial empowerment as Nigerians have witnessed in the Niger Delta struggle and its corrupt management;<sup>53</sup> and the sordid corrupt enrichment of several State managers of Boko Haram insurgency, in Nigeria.<sup>54</sup> In Nigeria, an evolution within the society in form of thesis and antithesis of the society into a synthesis of classless society as predicted by Marx may never emerge in the near future because, as seen in the ENDSARS protest in 2020, the level of high-handedness exhibited by the ruling class who are themselves the capitalist class in Nigeria point to the fact that this class will stop at nothing to ensure that the down-trodden of the society, (not Marx working class) will be subjugated at all cost, to retain the *statusquo*.<sup>55</sup>

At the level of legislation, what plays out in Nigeria is that each ruling party, usually in the majority in the legislative house, initiate amendments to existing electoral laws, to suit her master-plan to manipulate the next electoral process. While such initiatives rattle peace of the House most times but when it comes to crafting laws that scoop the economy of the nation in form of “salaries and allowances” of members of the Legislative house

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<sup>49</sup> Samba, *op.cit* at 103-107.

<sup>50</sup> *Ibid.* at 105

<sup>51</sup> *Ibid.*

<sup>52</sup> PAC Rodas and V Mohini, at al, ‘Journal of Development Studies’ vol.55, 2019,, issue(2)433 <<https://doi.org/10.1080/00220388.2017.1366453>> accessed on 12-03-2021.

<sup>53</sup> AF Modupe, ‘Niger Delta Development in a Corruption Ridden Society: Importance of Insurgency’ <[globaljournals.org](http://globaljournals.org)>4-Niger-Delte> accessed on 12-03-2021.

<sup>54</sup> UD Umaru, ‘Impact of Corruption on Insurgency in the North Eastern Region of Nigeria’ <[www.iosrjournals.org](http://www.iosrjournals.org)> accessed on 12-03-2021.

<sup>55</sup> Amnesty International, ‘Demand Justice for Violent Repression of Endsars Protesters’ <[www.amnesty.org](http://www.amnesty.org)> accessed on 12-03-2021.

or the Executive, there is usually calm, collection and compromise.<sup>56</sup> At State level, notwithstanding that the Constitution of the Federal Republic of Nigeria guarantees existence of “democratically elected local government council” but State Houses of Assembly are manipulated by various ubiquitous state Governors to initiate legislation that empower Governors to appoint their political surrogates as sole Administrators of various local Government Councils, in some cases, throughout the tenure of some of the Governors.<sup>57</sup> Such Administrators are used by state governors to siphon development and funds processed through the States from the Federation account thus accounting for inability of local government councils to pay salaries for months or to carry out development projects of any kind, for years.<sup>58</sup> Under such arrangement, it is difficult if the “State” and the “Law” as envisaged by Marx in his postulation of “thesis and antithesis” exist in Nigeria in the first place and if it ever did, if it has not already withered away, leaving only what Marx described as “a committee for managing the common affairs of the whole bourgeoisies”.<sup>59</sup>

#### 4. Marxian State-Withering and a Re-birth of Natural Law Philosophy

As earlier mentioned, sovereignty denotes exercise of State powers asserted within the framework of internationally recognized index, including binding laws, respect for rule of law, security, stability, sustainability, proper management of its economy and peaceful co-existence within the International Community.<sup>60</sup> While these constitute index of legitimacy of a sovereign State but it is the view of this paper that their corollary constitute index of a failed State which include, loss of control of its territory or loss of monopoly to make binding decisions on entirety of her territory; erosion of legitimate authority to make collective decisions; inability to provide public services; inability to interact with other States as a full member of the International Community; weakness of a central government leading to little practical control over much of its territory; without external support or influence, widespread corruption, criminality and intervention of State and non-State actors in the internal affairs of the State.<sup>61</sup>

According to Fund for Peace, the body championing research on index of failed State, it became necessary to change the terminology from “failed State” to “fragile State” to reflect the continuum of State development because, “failed” suggests a certain degree of finality where States are permanently subject to instability which could undermine aim

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<sup>56</sup> UD Umaru, ‘Corruption and Legislative Functions in Nigeria’ <[www.researchgate.net/publication/31...](http://www.researchgate.net/publication/31...)> accessed on 12-03-2021.

<sup>57</sup> S Bolatito and S. B. Ibrahim, ‘Challenges of Local Government Administration in Nigeria: An Appraisal of Nigeria Experience’ <[www.researchgate.net/publication/33...](http://www.researchgate.net/publication/33...)> accessed on 12-03-2021.

<sup>58</sup> OO Adeyemi, ‘Corruption and Local Government Administration in Nigeria: A Discourse of Core Issues’ accessed on 12-03-2021.

<sup>59</sup> Samba, *op.cit* at 104

<sup>60</sup> MA Barnett, ‘Quantifying Sovereignty: A New Way to Examine an Essential Concept’ <[dash.harvard.edu/handle/Barn...](http://dash.harvard.edu/handle/Barn...)> accessed on 12-03-2021.

<sup>61</sup> N Bhuta, ‘Governmentalizing Sovereignty: Indexes of State Fragility and the Calculability of Political Order’ <[Cadmus-eui.eu/handle/](http://Cadmus-eui.eu/handle/)> accessed on 12-03-2021.

of the index at encouraging discussions that support increase in human security and improved humanity.<sup>62</sup> In any case, what is apparent from the trend of failed state over the years is that whether as “failed State”, “failing State” or “fragile State”, they all depict situation where political and economic systems have become so weak that government virtually loses control, losing its legitimacy even if it is performing its functions.<sup>63</sup> It is a status foisted on the State through some internal weaknesses where basic conditions and responsibilities of a sovereign state no longer function properly and this is where Nigeria could be said to fall within index of a *failed, failing or fragile State*, taking the country to the precipice of Marxian concept of withering away.

As the situation is in Nigeria, social, political and security impunity dominate the State.<sup>64</sup> Kidnapping surge up in every city, town and villages that Nigerians are no longer sure if they would return to their homes at the end of their daily outing, in pursuit of daily bread.<sup>65</sup> In December 2020, while the President of Nigeria was in Katina, his home State, marauders kidnapped over three hundred and fifty students from a boarding secondary School in the State.<sup>66</sup> In February 2021, dozens of students along with teachers and their family members were kidnapped from a boarding school in Niger State, Nigeria and only a few days later, over three hundred students were kidnapped from a secondary school in Zamfara State with the helpless, government only resorting to negotiation on payment of ransom running into millions of dollars in each case.<sup>67</sup> In all these cases, all that government did was to contest the actual number of abductees without any firm plan on how to secure school system in Nigeria.

In Nigeria, ethnic cleansing by the Fulanis from all over Africa to whom Buhari, the Nigerian Fulani President opened the Nigerian borders for influx without visa or passport has become the greatest nightmare of the common man in most middle belt States of the country.<sup>68</sup> On the perceived completion of the project of these Fulani influx into every State in Nigeria, government directed mandatory registration and data capturing of “all Nigerians” to legitimize nationality of these Fulani foreigners in

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<sup>62</sup> Fund for Peace, ‘Fragile States Index 2020’ <[fundforpeace.org/2020/05/11/fragile...](https://fundforpeace.org/2020/05/11/fragile...)> accessed on 12-03-2021.

<sup>63</sup> Bluta, *op.cit*

<sup>64</sup> S Olumide, ‘It is Time to End Impunity in Nigeria’ <[www.aljazeera.com/opinions/2020/12/](https://www.aljazeera.com/opinions/2020/12/)> accessed on 12-03-2021.

<sup>65</sup> N Wodu, ‘Nigeria’s Internal Security Problem’ <[www.cfr.org/blog/Nigerias-internal-se...](https://www.cfr.org/blog/Nigerias-internal-se...)> accessed on 12-03-2021.

<sup>66</sup> T Obieze, ‘Fresh Kidnap of 80 Students in Nigeria Shows Worsening Insecurities’ <[www.voanews.com/africa-kidna...](https://www.voanews.com/africa-kidna...)> accessed on 12-03-2021.

<sup>67</sup> BC ‘Zamfara School Abduction: GGSS Jangebe School Students...’ <[www.bbc.com/pidgin/tori-56249143](https://www.bbc.com/pidgin/tori-56249143)> accessed on 12-03-2021.

<sup>68</sup> This Day, ‘Visa on Arrival Policy and National Security’ <[www.thisday.com/2021/02/21/vis...](https://www.thisday.com/2021/02/21/vis...)> accessed on 12-03-2021.

Nigeria.<sup>69</sup> The resultant trend has been a resort to violence against local communities by the Fulani stocks, in search of homeland for themselves, in each case, resulting in ethnic cleansing of indigenous communities, which ugly incidents the Nigerian government helplessly referred to as “communal clashes” with obvious superiority of the foreigners who are armed with *AK rifles* and other sophisticated arms.<sup>70</sup> In the face of such developments, indigenous people abstain from going to farm for risk of being mowed down by the Fulanis. Those who had farm products on their farms before the arrival of the Fulanis would rather abandon such products for them, thus enlarging the sphere of internally displaced, poverty, lack and beggars in indigenous communities and cities in Nigeria. The grim account of some of the victims of kidnapping including attempt to kidnap or assassinate the Governor of Benue State in March 2021, point to a more callous breach and trampling of human rights than has been reported anywhere in the civilized world, in this century.<sup>71</sup>

In the face of such uncertainty, various regions of Nigeria are either threatening to secede or raise Regional Defense Corp, even if unconstitutionally.<sup>72</sup> As if to awake from her slumber, the Commander in Chief of the Nigerian Armed Forces resorted to changing his security Service Chiefs, without any improvement in the Nation’s security situation, all the same.<sup>73</sup> With increased failure of Nigeria’s economy from unparalleled greed for corruption at all levels, several illegal arms now flood black markets, heightening the level of insecurity in the country.<sup>74</sup> In Kogi State like several other states in Nigeria for instance, there are reports of senseless arson on residential buildings resulting in the death of innocent Nigerians, including women and children and matchetting to pieces human beings on the streets in broad day light, without fear of reprisal by security agents.<sup>75</sup> As if to flex muzzles to show that they are not as defeated as the Nigerian public think of them, security agents resort to extra-judicial killing of several youths which the society

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<sup>69</sup> Thales Group, ‘The New Nigerian National eID Program’ <[www.thalesgroup.com](http://www.thalesgroup.com)>*Nigeria-eid*> accessed on 12-03-2021

<sup>70</sup> O Tade, ‘Conflict Between Herders and Formers: Nigeria Needs to Accept There are Victims on Both Sides’ <[theconversation/amp/c](#)> accessed on 12-03-2021.

<sup>71</sup> Vanguard, ‘Assassination Attempt: Governor Ortom Meets Buhari at Aso Rock’ <<https://www.premiumtimesng.com>> accessed on 29-03-2021.

<sup>72</sup> Ifeanyi Okpara, ‘Biafra: Why Igbo want to Secede’ <[www.researchgate.net/publication/31...](http://www.researchgate.net/publication/31...)> accessed on 15-02-2021’; N. Egbunike, ‘A Regional Security Intervention in Nigeria Speaks Ethnic, Political Tensions’ <[globalvoices.org/2020/01/24/a-regio...](#)> accessed on 15-03-2021.

<sup>73</sup> J Campbell, ‘Nigerian President Buhari Shuffles Military Service Chiefs’ <[www.cfr.org/blog/nigerian-president...](http://www.cfr.org/blog/nigerian-president...)> accessed on 12-03-2021.

<sup>74</sup> JM Hazen and J. Horner, ‘Small Arms, Armed Violence, and Insecurity in Nigeria: The Niger Delta in Perspective’ <[www.smallarmssurvey.org/docs](http://www.smallarmssurvey.org/docs)> accessed on 12-03-2021.

<sup>75</sup> S Diallo, ‘Nigeria: Post-Election Violence Killed 800’ <[www.hrw.org/news/2011/05/16/nig...](http://www.hrw.org/news/2011/05/16/nig...)> accessed on 15-03-2021.

endorse as the last resort against the daring band of marauders that defy the weak national security outfit.<sup>76</sup>

In any case, this scenario that contemporary world refers to as State failure or fragile State is akin to Marx “withering away” of the State in circumstances casting doubt on legitimacy of government and the Nigerian State. Such a situation calls for a revolution that would jettison the *statusquo*, to return the Nation to natural law philosophy of the Contractarians like Hobbes and Grotius. From the index of corruption, insecurity, violence, dishonesty and volume of foreign debt of Nigeria, the country has virtually lost credibility before International Community that foreign leaders talk about a nation that was once reckoned as “giant of Africa” now with disdain and disrespect.<sup>77</sup> For several years, the Nigerian National Army that used to receive accolades in their contribution to International peace-keeping has failed to wrestle a large part of North-East of the country from Boko Haram insurgents despite billions of dollars allegedly borrowed and spent in containing this Islamic sect.<sup>78</sup> With most provincial roads and bridges in despair; hospital buildings and facilities dilapidated; schools holding classes under trees and all public services, including rationing water and Electricity services where they exist; and with a failed electoral and all other democratic processes and wide-spread violence in all the cities and villages in Nigeria, it is obvious that the country may not have withered away in the spirit of Marx and Engels philosophy; or become a “failed State” within the index of International Community but it qualifies as a “fragile State” on the watch-list of International Community.

Having regards to the foregoing, this paper contends that it is obvious that all Nigeria’s positivist laws having failed, the country must return to a philosophy that promotes a revival of natural law, to appeal to human conscience and a reformed style of administration as in the *Oyo Empire* arrangement where rulers and the ruled insisted on doing the right thing because that was the standard of the gods.<sup>79</sup> It is by such pro-active measure that Nigeria can fight the scourge of corruption that has virtually destroyed whatever credibility that is left in the Nigerian sovereign State in this century. This is the arrangement that will restore sanity in every facet of the Nigerian Nation State and launch her to a new era that would restore legitimacy and credibility of the country, within International Community.

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<sup>76</sup> O Ogunde, ‘The Police and Extra-Judicial Killings in Nigeria’ <[democracylinafrika.org](http://democracylinafrika.org)> accessed on 15-03-2021

<sup>77</sup> Plus TV. Africa, ‘Nigeria: The Rise and Fall of Africa’s Giant’ <[mytube.com](http://mytube.com)> accessed on 10-03-2021.

<sup>78</sup> *Ibid.*

<sup>79</sup> W Gbagyi, ‘The Checks and Balances under Yoruba Political System Before Colonial Rule’ <[www.virtualcollege.com](http://www.virtualcollege.com)> accessed on 10-03-2021; A. Soyeye, ‘Alafin of Oyo: Checks and Balances, Governance, Nigeria, Old Oyo Empire’ <[www.featherproject.wordpress.com](http://www.featherproject.wordpress.com)> accessed on 10-03-2021.

## 5. Conclusion and Recommendations

This paper interrogates impact of corruption on Nigeria's sovereignty within the framework of Marxist philosophy of law. Examining this philosophy from the perspective of Marx teachings on historical materialism, Economic Determinism and projection that law and the State will wither away in the thesis and antithesis of social consciousness at a particular point of their synthesis, the paper found that some of the excesses of this philosophy resulted from undue parley with the principle of development Marx spotted in the Hegelian dialects. The paper contended that although the practical realities of the dispensation that informed Marx position differ from the realities of contemporary sovereign State but all the same, postulations of this philosophy remain akin to the reality of the present day Nigeria, whose sovereignty has been threatened and battered to the precipice of a fragile or failed state, by an unbridled trend of corruption.

As a measure to close the missing link in the postulations of this philosophy as to what the society must resort to if and when the law and the State wither away, the paper called for a rebirth of Natural Law and its administrative relics, as a new dawn for the Nigerian legal order. It is on this score the paper recommends as follows:

- a. That with the devastating effect of corruption on every aspect of Nigeria's national life, which has driven the country to the precipice of a failed State, the situation should be reckoned as akin to Marx withering away of the State and therefore restating relevance of Marxist philosophy of law in the present dispensation.
- b. That from the background where conventional jurisprudence relegated Marxist philosophy of law over the years, relevance can still be created for it in contemporary world where index that informed its evolution re-emerge in differing but virtually reflective of the same values.
- c. That in places of Marx postulation of governmental functions being transformed into administrative ones, natural law principles be recloined only as a conscience-focused philosophy, to address endemic nature of corruption in Nigeria that is resilient against the elaborate positivist laws in the Country; while relics of natural law principle of governmental organogram as in the old Oyo Empire should be adopted.
- d. That revival of natural law in this dispensation may no longer be in form of laws passed and enforced as in the past but as a guide and conscience that law and State functionaries require, to arrest impunity and apathy to rule of law that have virtually grounded the Nigerian sovereignty.