

Rule of Law in Nigeria

Mohammed Mustapha Akanbi, Ph.D.

Senior Lecturer, Department of Business Law, Faculty of Law, University of Ilorin, Nigeria. Email Address:

laroungbe@yahoo.co.uk; GSM No. +23408033558277

Ajepe Taiwo Shehu, Ph.D.

Senior Lecturer, Department of Public Law, Faculty of Law, University of Ilorin, Nigeria. Email Address:

atshehu2000@yahoo.com, Ajepe@unilorin.edu.ng; GSM No. +23408034810069

Abstract

The rule of law is expected to be the guiding principle of governance since it is the foundation of good governance. The experience in Nigeria is to the contrary as successive administration in the country often violated the concept with carelessness and recklessness. This paper thus examines how the concept has suffered in the hands of the administrations using doctrinal and analytical synthesis of events. It is the concern of the paper that successive military administrations in the country and democratic ones have not done better thus putting a big question mark on their democratic credentials. It is most certain that unless the political leadership in the country see itself as a creation of the law and must thus be guided by the law, the rule of law would continue to suffer in their hands. Also, the judiciary must be accorded absolute autonomy from the other arms of the government.

Keywords: Rule of Law, Nigeria, Military, Democratic governance, Constitution

I. Introduction

The meaning or content of the concept of the rule of law vary from place to place, and from earlier times. To Aristotle, the “rule of law is preferable to that of any individual”, while Bracton, writing in the 13th century adopted the theory generally held in the middle ages that the world was governed by laws, human or divine and that the king himself ought not to be subject to man, but subject to God and to the law, because the law makes him king. Anthony Mathew (1988: 219) summarized the doctrine of the rule of law as:

- a. that the law touching on the basic rights of citizens shall be narrowly and precisely drafted so as to constitute a clear guide to official actions and citizens’ conduct; and
- b. that the application and interpretation of such laws shall be under the control of impartial courts operating according to fair procedures

The rule of law simply means that law rules or reigns (Nwabueze, 2007: 3-8). This presupposes a situation where everything is done in accordance with law thereby excluding any form of arbitrariness (Nwabueze, 2007: 3-8). The concept as we understand it and adopted in developed societies; where democracy has long been a way of life of the people and where despotism or dictatorship is no longer the order of the day, implies and equally connotes that the citizens in relationship amongst themselves inter se and with the government bodies and their agencies shall be beholden unto the law which shall not be ignored by anyone except at his peril, and if by the government, this will promote anarchy and executive indiscipline capable of wrecking the organic framework of the society (Pat-Acholonu, 1995: 43-47). It is a way of preventing the abuse of discretionary power. It accords with the dictates of reason that the court should use its awesome power to make the government of the day rule by principles recognized in civilized societies and bound by the pronouncements of the courts (Pat-Acholonu, 1995: 43-47).i

The very first attempt to reduce the idea of the rule of law to precise legal form was by Professor A. V. Dicey in his lecture on English Law at the University of Oxford in 1885. According to him, the doctrine of the rule of law has three aspects; first, “it means the absolute supremacy or predominance of regular law as oppose to the influence of arbitrary powers ...” *Liversidge v Anderson* (Appeal Cases, 1942: 206). The courts in Nigeria have also adhered to the principle (Mohammed Oluyori and Other, 1996: 69). Secondly, it means equality before the law, or the equal subjection of all classes to ordinary of the land administered by the ordinary law courts. Simply put, this means any person irrespective of his rank and status in life is subject to the ordinary law of the land.

Thirdly, according to Dicey, the rule of law may be used as a formula for expressing the fact that with us the laws of constitution, the rules which in foreign countries naturally form part of a constitutional case are not the source but the consequence of the right of individuals as defined and enforced by the court. These rights are found in most national constitutions as in chapter four of the 1999 Constitution of the Federal Republic of Nigeria, African Charter on Human and Peoples Right and other regional and international bills of rights.

Professor Wade on his part summarized some of the important attributes of the rule of law to wit.

- a. All acts must be in accordance with the law to be valid.
- b. That government activity must be conducted within a framework of defined rules and regulations.
- c. That disputes involving legality of government actions must be decided by Courts independent of the government.
- d. There should be no undue privileges and discrimination in the society and
- e. That no one should suffer punishment outside the authority of the law.

The rule of law is not the exclusive preserve of any single government, it transverses all actions and jurisdiction. It is a universal concept; this is because the International Commission of Jurists has on at least three occasions attempted to throw light on the doctrine. In 1955, in Athens, the Commission declared that the rule of law means that law must bind the state like the governed; all governments must respect individual rights and provide effective means of enforcing such that judges must adhere to the rule of law and adjudicate without fear or favor. They must resist attempt from any quarter to jeopardize their independence in the performance of their function and duties. Lawyers all over the world must guide the independence of their profession and uphold the rule of law in the practice of their profession.

In 1959, there was another conference in Delhi, India (International Commission of Jurists: 1959), in which the meaning and scope of concept was re-examined and a communiqué issued that:

The rule of law is recognized as a dynamic concept for the expansion and fulfillment of which jurists are primarily responsible and which should be employed not only to safeguard and advance civil and political rights of individual in a free society but also to establish social, economic, cultural and educational conditions under which his legitimate aspiration and dignity may be realized. (International Commission of Jurists: 1959)

In 1961, in Lagos, Nigeria, the Delhi declaration was re-evaluated and contained in a document called “The Law of Lagos” which in its declaration stated that the concept

is a dynamic concept which should be employed to safeguard and advance the will of the people and the political rights of the individuals to establish rights of the individual to establish social, economic, educational and cultural condition under which the individual may achieve his dignity and realize his legitimate aspirant or independent.” (International Commission of Jurists: 1961)

The rule of law can therefore be seen to have metamorphosed from its original conception as a natural law divine concept against which municipal laws are to be measured into the classical Diceynian conception as rights ultimately culminating in the Delhi and Lagos formula of an admixture of the classical and the materialistic meaning with greater emphasis on the latter particularly in relation to the third world countries.

From the foregoing, it is clear that whilst the ideal of the rule of law might not have a stable meaning or content, however its one abiding principle is regularity of law, the idea that man is governed by law and regulations and not by the caprices of the rulers. It demands equality before the law, the law is no respecter of anyone or institution, that governance must be in accordance with the law and not by the whims of any person, for the law is supreme and governs even the governors whose powers and functions are only creations of the law itself, be it national, regional, continental or international in character.

It is against the foregoing that the application of the concept in governing Nigeria is examined both in its orthodox and contemporary perceptions, both under the military and civil administration. The paper thus in the second part examines adherence to the concept in Nigeria under the previous military administration, how the regimes have brazenly rendered the concept nugatory though understandably because of the very nature of military government. The third part similarly examines governmental approach to the rule of law only to the utmost disgust that the democratic governments are not better than the military in their claims to adherence to the principles of the rule of law. The last part is the concluding aspect and recommendation.

2. The Nigerian Experience

What has been the lot of the concept of the rule of law in Nigeria? Has it been upheld as supreme or has it suffered bashing from the various government irrespective of their political toga be it military or civilian. In order to appreciate how well or how bad the rule of law has fared in Nigeria, the concept would be treated under two periods namely; military regime and civil rule. Military administration is necessarily a regime of force. Its manner of coming to power is usually a forceful entry into governance, usurpation of the existing political and constitutional order in a manner not contemplated by the constitution. The Constitutions in Nigeria, starting from 1960 to the present 1999 constitution (amended) have always provided for democratically elected government.

Nigeria has so far experienced a long years of military rule from 1966 to 1998 with only intermittent civil governance. However, what is striking is the fact that on attaining power through the barrel of the gun as against the ballot box the military junta usually proclaimed the rule of law as the cornerstone of their administration (Fred Agbaje: (1995). For example, the late Major General Idiagbon of the Buhari/Idiagbon Military era (1984 – 1985) alluded to the rule of law when he stated that “... stable government is absolutely impossible anywhere in the world if the governed are denied their rights and they have nowhere else to seek redress.” Events have however shown that military leaders more particularly of the era of the late General (1984-1985) only paid lip service to the rule of law. It is against this background that the rule of law would be discussed in the military era. As would be seen shortly, the civilians are not in any way respecters of the concept

3. Military Approach

Whenever a military government came to power, certain provisions of the existing constitution are suspended through the usual Constitution Suspension and Modification Decree. This process was usually an attempt to maintain power, gain legitimacy for the government and to ensure that popular discontent with the military was killed without minding the considerable erosion of the rule of law. To suspend certain provisions of the constitution amounts to infringing on the collective will of the people as contained in the constitution that is ordained by the people for themselves which are the very foundation of the rule of law and constitutional order. Besides, the military ruled by Decrees and usually most of the decrees have ouster clauses the provision of which makes anything done or purportedly done pursuant to or under such decrees non-justiciable.

Basically, the military is characterized with suspension of certain provisions of the constitution, abuses of human rights, dismissal of democratic institutions (executive and legislature) though leaving the judiciary that can not just be washed away under any disguise, but not without some bruises; restriction of jurisdiction of the courts by decrees. With this there was a running battle between the courts and the military, with the courts flying to jealously guard their jurisdiction on the one hand its actions go unchallenged on the other hand. But as usual, the courts have the judgment, but no enforcement machinery.

In *Agbaje –Vs Commissioner of Police* (1 Nigerian Monthly Law Report, 1969: 137), the complainant sued for unlawful detention by the commissioner of police under the Armed Forces and Police (Special Powers) Decree No 24 of 1967. The decree empowers the Inspector General of Police and the Army Chief of Staff to order the detention of certain persons and provided that such orders could not be inquired into by the courts. However, the Western State High Court held that the court had power to inquire into the validity of such an order and that the onus was on the I.G.P (or the Chief of Staff) or any person acting under his control or in execution of his order there under to show strict compliance with the enactment. Such an authority of person must also show that the acts of the person detained came within the purview of the decree.

In the case of *Council Of The University Of Ibadan v Adamolekun* (1All Nigerian Law Report, 1967: 223), the question raised in the case concerned the interpretation of the provisions of section 35 (i) of the Court of Appeal. Edict No. 15 of 1967 which provides;

Subject to the provision of this section, any appeals which would have been brought from any decision of the high court to the supreme court under or by virtue of any law in force in the region or constitution of the federation and which was not a pending appeal on the 1st day of April shall as from that date be deemed to lie in the first instance to the Court of appeal.

The respondent contended that by virtue of the above provisions, appeal could not lie directly to the Supreme Court, but only Western State Court of Appeal pursuant to the provision of section 127 of the 1963 Republican Constitution. The appellant, on the other hand, contended that the provision quoted above amounted to an ouster clause, which had the effect of taking away the appellants constitutional rights in that section 3(1) of the Court of Appeal Edict, was ultra vires and against the provision of the constitution of the Federation and Section 3(4) of Decree No. 1 of 1966. The apex court held in favor of the respondent that section 35 of the Court Of Appeal Edict is void. That section 35 of the edict is void there can be no doubt. In other words the court did not enquire into whether the military governor of a region could legislate by edict, but only whether or not section 35 of the edict is inconsistent with the constitution of the Federation.

Interestingly, the judiciary struggled to maintain its sacred and constitutional role against all oddity of restrictions in the form of ouster clauses as demonstrated in *Lakanmi and others v The A.G. (WEST) & 2 others* (6 Nigerian Supreme Court Cases, 1970: 143), In that case, the Supreme Court held that the Federal Military Government was not a revolutionary government and that Decree No. 45 of 1968 which called for forfeiture of assets of certain persons amounted to legislative sentence, hence was ultra virus. The court having equally held that Edict No. 59 of 1967 of which the Decree sought to shore up was equally invalid, null and void. In the case, the military by Decree No. 45 of 1968 (which superseded a state Edict to the same effect) purported to acquire compulsorily the property of the appellant without compensation on the ground that he had committed acts of impropriety. There was no trial of the allegations against him and he successfully challenged the acquisition in court, when the matter came before the Supreme Court it was held, Per Ademola, CJN

“We must here revert again to the Separation of Powers which the learned Attorney General himself did not dispute is still the structure of our system of government. In the absence of anything to the contrary, it has to be admitted that the structure of our constitution is based on the structure of power, the legislation, the executive and the judiciary. Our constitutions clearly follow the model of the American Constitution.”

This judicial courage exercised by the Supreme Court also had a following in other cases like *Re: Mohammed Oluyori & Ors* (1996: 69 and some other cases. However, the military government of the day stamped its superiority by enacting the Federal Military Government (Supremacy and Enforcement of Power) Decree No. 28 1970. The Decree took out the wind from the sail of the Supreme Court making the apex court reluctant in examining ouster clauses as can be seen in the subsequent attitude of the court to a number of cases bothering on ouster clauses. For example, in *Nwosu v Imo State Environmental Sanitation Authority and Others*, (2 Nigerian Weekly Law Report, 1990: 688), Belgore JSC (as he then was) stated that “...military regimes, decrees of the Federal Military Government clearly ousts courts jurisdiction, there is no dancing around the issue to found jurisdiction that has been taken away...” Interestingly, Pat-Acholonu, J. C. A. (as he then was) cautioned against blanket submission by the judiciary to ouster clauses. He said:

Courts are not frightened of an ouster clause. They respect it but when an ouster clause seeks to make it impossible for the courts to protect the common man and make laws which cannot stand the test of reason or that is an affront to decency and intelligence then a court should be careful not to lend its weight to a law that would make it an enemy of the common man and not the last hope of the common man...(1 Nigerian Weekly Law Report, 1991: 525).

This attitude of the court which portrayed a state of helplessness appears to be a subversion of the rule of law, because it appeared that the courts most especially the Supreme Court willingly seceded their judicial responsibilities, (which otherwise should have been guarded jealously) to the Military Junta.

This passive attitude of the courts to ouster clauses did in no small measure damage to the Rule of Law in the Military era. To this end, one would not but agree with the words of Pat Acholonu, J.C.A (1991: 525) that holding the ouster clauses by the courts as “though they were stipulation from God will not help in the development of jurisprudence”

The negative effect of ouster clauses has been summarized as inhibiting the right of access to the general jurisdiction of the court, bringing to the fore the factual situation that the judiciary in a military regime as a arm of government is very weak etc.iii Certainly, there is no gainsaying that a government that governs through fears, menace or by blunting the teeth of the judiciary with ouster clauses in decree is a government that may conveniently be described as not observing the rule of law.

Apart from the introduction of ouster clauses, the military established military tribunals rather use the ordinary courts of the land, to handle certain category of cases. The tribunals were constituted under the guise that their presence was necessary to reduce work loads on the courts, which in turn ensure a faster means of dispensing justice. The establishment of military tribunals was aimed at tackling negative attitudes that threatened the fabrics of the society; armed-robbery, drug trafficking, fraudulent practice etc. However, no sooner than the tribunals were set up that they were used as instruments of oppression. It was discovered that most of the persons brought before the tribunals were persons perceived as opposition to the government of the day. Secondly, rather than adjudicate speedily, most of the tribunals were characterized by snail-like speed in the determination of cases brought before them. It had been noted that the proliferation of the mil tribunals tend to undermine the fairness of the criminal justice system iv and further acts as a derogation from the judicial powers constitutionally vested in the court.v Also worthy of notes is the fact that most of the decision from the military tribunals cannot be tested on appeal in a regular court. Rather, in most cases, appeal lie to another appellate tribunal or to the highest ruling body.

A tragic incident that is worth remembering is the Ogoni case involving the late playwright Mr. Ken Saro Wiwa and 8 others, who were tried by the Ogoni civil disturbances tribunal. The convicts were sentenced to death by the tribunal in November 1995 and a few days to the expiration of their period of appeal to the PRC, the men were executed to the chagrin of right thinking members of the society both local and international. A situation where the judicial responsibility of the courts is usurped by extra judicial institutions clearly negates the concept of the rule of law. Further still, a situation whereby the chairmen and members of the tribunal fell over themselves to secure conviction against persons brought before them in order to please their masters in government created a huge dent to the rule of law.

It is not unusual in times of national emergency for government to make laws curtailing the civil liberties of the citizen for safety and security of the state. Under the military, this power of the state to restrict the social liberties of the citizens was used as a sword rather than a shield; it became a weapon for fighting or silencing perceived opposition. During the military era, there were cases of people detained without trials and no reasons were adduced. Attempts by lawyers to seek judicial remedy by way of habeas corpus hit brick walls. Incidental to the misuse of power to detain citizens without trial are other forms of human right abuses, e.g., the power to engage in arbitrary arrest of citizens under the quest of ensuring national security, this was the trademark of the military in their quest to clamp down on perceived opponents.

Most military governments suffered from what can be termed the “Alpha and Omega” syndrome, which is a situation whereby the military in power believes that they are in law and even more they are above the law. Another way of describing the “Alpha and Omega” syndrome may sometimes be the whims and caprices of the leadership of the military government and if this is the case, A.V. Dicey’s concept of the rule of law has no place in a military regime where executive lawlessness reigns supreme. It is necessary to recall some of the incidents when the military engaged in the abuse of cardinal principles of the rule of law or acted in excess of the minimum norms of government acceptable in a civilized society. The most grotesque abuse of the rule of law under the military was through the reckless abandonment with which and sometimes-mindless way they had to use force and the instrument of state power on the innocent and helpless civilian populace (Jegede: 1999: 19).

The incidents of the harassment of ordinary citizens by military personnel abounded and all these show that the military in power usually, saw itself as above law. For example, during the General Olusegun Obasanjo Military regime (Feb. 14, 1976-Sept. 30, 1979), the house of the Late Fela Anikulapo-Kuti was invaded by a lorry load of

armed personnel and upon his complaint, he was rewarded with the answer that “unknown soldiers” carried out the act and thus ended his search for justice. Another instance took place in 1985, when the former warlord was loosed; Chief Odumegun Ojukwu was forcefully ejected from his residence in Lagos by a multitude of armed men. The apex court of the land, while describing the forceful ejection as an act of executive lawlessness went further to reiterate that the “...essence of the rule of law is that it should never operate under the rule of force or fear” (Military Governor of Lagos State v Ojukwu, I Nigerian Weekly Law Report, 1986: 626).

Yet again, we may recall a minor traffic offense committed by the late chief M.K.O Abiola’s son against an air force driver which prompted the invasion of his residence molestation and detention of the chief and members of his family, an act which was condemned by the public as outrageous, brutish and barbaric and yet he went without a remedy.vi Babalola, described as “...only an assault to the dignity of chief Abiola but that it was also an assault on the rule of law and freedom of the people of Nigeria.” (National Concord: 1988, January, 28: 10).

Also worthy of blame is the negative role played by the attorneys general in the support and encouragement of executive lawlessness, an attorney general worth his salt, being a member of the noble profession, should have been able to give sincere and honest advice to a military government. The situation under the military showed that because of the fear of losing his job, the chief legal officer rather than advice against enactment of obnoxious laws would prefer to help in fine-tuning and sharpening the laws in a bid to make his draconian laws more effective. There is no doubt that that executive lawlessness is a major threat to the concept of the rule of law.

One of the negative features of military government was the enactment of retrospective decrees. These decrees by their very nature were clear breaches of the doctrine of rule of law, because they expose citizens to punishment without having had the opportunity to avoid breaking the law. Put differently, these retroactive laws had the effect of turning an otherwise innocent person into an offender for an act done yesterday, which the law had made an offence today attached with a punishment starting from yesterday. An example of this retroactive decree was the decree No.20 of 1984 which introduced drastic penalties to various acts amongst which was dealing with cocaine. The decree was deemed to have come into effect on 31st December, 1983 although, it was actually promulgated on the 6th of July, 1984. The consequence of the retroactive law was that what was lawfully done before the promulgation of the retroactive law may suddenly become criminalized having effect from the time it was not an offence.

Another example of objectionable retro-active laws passed during the military era is the Lands/Title Vesting etc. No 52 of 1993, wherein by virtue of section 7 of the decree, the commencement of the decree was back dated to January, 1975. The import of this section is to circumvent the Land Use Act of 1978 which vests ownership of land in the state government (Azinge: 1994: 43). One often wondered whether such decrees were ever made for public good, to protect the interest of the society or to advance the interest of some highly placed individuals in the country (Jegede: 1999: 19).

4. Civil Rule

Expectations were that the rule of law would naturally thrive better in a democracy than in erstwhile military regimes. The hopes were certainly dashed; certain ugly development that were experienced during the short periods of civil rule and still so persisting in the current dispensation have shown that the disregard for the rule of law is not the exclusive characteristic of the military government, democratic governments also sometimes have constitutions, but without constitutionalism and the rule of law. Below is the brief sketching of the brazen travesty of the rule of law by the successive civilian administrations in Nigeria, from Alhaji Aliyu Shehu Shagari, the first executive president of the Federal Republic of Nigeria (1979-1983) to President Olusegun Obasanjo (1999-2007).

The Nigeria’s first attempt at constitutional, democratic government was that of Sir Abubakar Tafawa Balewa, the Prime Minister of the Federal Republic of Nigeria with Dr. Nnamdi Azikwe as the ceremonial president, between 1960 and 1966. The period was characterized by political and fundamental constitutional crises such that the military, in a bloody coup overthrown the government (Kirk-Green: 1971: 13-24; Ademoyega, 1981: 8-32; Madiebo, 1980: 3-14). The extent of the affront on the rule of law and constitutionalism can better be imagined than experienced as can be adjudged from the coup and its aftermath, culminating in the 30 months

Nigerian civil war, from 1967 to 1970 (Madiabo, 1980: 349-377). The military could not immediately after the war hand over governance to democratically elected government until 1st October, 1979 when power was handed to Alhaji Aliyu Shehu Shagari as the first executive president of the federal Republic Of Nigeria.

Barely four months in office, on the 24 January, 1980, Nigerians were greeted with the news of the deportation of a Nigerian, the majority leader of the Borno State House of Assembly, Alhaji Shugaba Abdulrahman Darma. He was declared a prohibited immigrant by the Federal Minister of Internal Affairs, Alhaji Maitama Yussuf, and was deported to Chap Republic where he was just dumped by a river side. The grounds for his deportation were that, as shown on the affidavit, "... by the Nigeria Security sources, which showed conclusively that the applicant was, and still is a serious danger to public safety, public order as well as danger to the rights and freedom of others in Nigeria" (Nwabueze, 1985: 205). These are serious allegations that the rule of law would demand thorough investigation before the applicant was declared as such. At the immigration office before his deportation, he had insisted that he was a Nigerian and that his claim should be investigated. Rather than acceding to investigate the veracity of his claim, and seek an order of the court authorizing his deportation, the Minister purportedly acted under the Immigration Act, 1963. It would be interesting to note that Shugaba was of the Great Nigerian People's Party while the central authority was controlled by the National Party of Nigeria. His party had overwhelming majority in the Borno State House of Assembly, and the party's candidate also won the governorship election (Nwabueze, 1985: 205). However, the deportation order was quashed by the Borno State High Court and later affirmed by the Federal Court of Appeal (Fed. Minister of Internal Affairs & Others v. Shugaba Darma, 1982: 953; Shugaba Darma v. Fed. Minister of Internal Affairs & Others, 1981: 516).

There was preponderance of instances of breach of the rule of law, ranging from exercise of executive power without constitutional authorizations (Nwabueze, 1985: 205), to unconstitutional interference with judicial and legislative powers (Nwabueze, 1985: 205). In simple terms, the rule of law was reduced to rubble during the Shagari tenure as done under the military, except that ouster clauses were unknown to the constitution and there was high level of freedom of the press under Shagari than under the military.

Chief Olusegun Obasanjo's government (1999 to 2007) would, perhaps, go down in constitutional history of Nigeria as the worst in ranking for abuse of the rule of law and constitutionalism. One can really understand Obasanjo's leadership style and high handedness; his military background as a retired army general could not just allow him, as a civilian president, suddenly familiarize himself with democratic norms, including the rule of law, he was only used to command system. This certainly dictated a lack of respect for the rule of law (Shehu, 2009: 175-183). There are several instances of abuse of the rule of law under the Obasanjo administration, ranging from violation of the provisions of the constitution, abuse of human rights (Nwabueze, 2007: 116), and illegal interference in the affairs of the Legislature to masterminding removal of State Governors who were opposed to his leadership style (Shehu, 2009: 175-183).

Indeed, he was always in crises with the House of Representatives during the 1999-2003, but in spite of that he could not be impeached because the Peoples Democratic Party on whose platform he became the president had majority in the House. This could not however avert most of the constitution crises he had with the legislature simply because of his lack of respect for the rule of law. The Political Party on whose platform did not help the matter as every bit of the president's breach of the rule of law was seen practically from partisan view and thus always in support of the president. The position of the party may however be understood from the fact that the president was the custodian of the wealth of the nation and could deploy it the way he wanted since he became law, and the legislature. Nwabueze's account of how President Obasanjo subverted the rule of law can not be faulted on any account. However, President Obasanjo being a military man (a retired Army General) could not readily come to terms with the dictates of democratic norms; the rule of law and constitutionalism. He believed he was yet a military dictator to whom the rule of law means the rule of force.

5. Conclusion/Recommendation

From the totality of the above it is clear that the rule of law is second to none in governance, particularly democratic type. The military usually came to power through the barrel of the gun, thus an aberration. It could therefore be out of mere academic exercise discussing the rule of law in a military regime. Certainly, the very nature of the military, not being trained for democratic governance and not being trained in the art of obedience

and adherence to the normative concepts of the rule of law are most likely to have little or no respect for the rule of law. This explains why president Obasanjo's administration was deep in lack of respect for the rule of law. It was more of arrogance of power and unnecessary display of the federal might leading to breach of the rule of law during administration of president Shagari.

However, to ensure absolute control by the law the judiciary must be totally independent of the other arms of the government. This suggests that appointment and removal of justices of the superior court of records in Nigeria must be by the people themselves through a collegiate. It is only when the judiciary is fundamentally free from the clauses of the legislature and the executive in all ramifications that the rule of law could be the only guide in governance.

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