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Review

Decentralisation and constitutionalism in Africa: A theoretical exploration for sustainable distributive justice

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Central to the problem of most of the states in Africa as a whole and Nigeria in particular is the excessive centralization of the federal system. The centralized federalism denied the opportunity for self-expression, autonomy and by extension prevented avenues for negotiations towards attaining equity and justice. Similar to this is the defect on the constitution which is meant to define what is right by creating a system of laws whose foundation is hinged on justice, fairness, equality and freedom. At present, the democratization process going on in most African nations promised some ideal program aimed at ameliorating poverty and reducing unemployment rate, but for these reformation to out live each democratic regime is the quest for constitutionalism. Given this, the problem of socio-political instability and disorder which are consequences of structural imbalance in the democratic system would be effectively resolved if adequate attention is paid to the question of distributive justice. This paper, therefore, adopted John Rawls's theory of justice as its theoretical framework. Specifically, emphasis is laid on the Rawlsian Difference Principles, which prioritize the demand of social equality over that of liberty and thus would reduce the problem of social inequality and its attendant negative consequences.

Key words: Decentralization, constitutionalism, justice, federalism, rawls.

INTRODUCTION

There are certain elements of democracy which make it a suitable or preferred form of government in the world over. Notable among these is the ability to devolve power or transfer authority from a central to the sub-national level. This concept which is known as decentralisation ensures greater efficiency and equity in the use of public resources and service delivery. Decentralisation has brought most of the fundamental changes to the governing structures in the administrative and economic system in Africa. However, to establish the credibility and

stability of the fundamental changes which decentralisation has brought is the quest for constitutionalism. Constitutionalism is the rule of the constitution in conformity with its letter; it is the rule of law. In Kay's view, the purpose of a constitution is to lay down fixed rules that can affect human conduct and thereby keep government in good order. Constitutionalism by extension implements the rule of law. It brings about predictability and security in the relations of individual to the government by defining in advance the powers and

limits of that government (Alexander, 1999: 4).

Given the above, constitutionalism in Africa is a deficit of this ideal plan. In the word of Kwasi (2007: 469), Africa's post-colonial rulers chose to create sources of legitimacy not in constitutions or democratic elections but in supraconstitutional, welfarist projects tied to the pressing material concerns of the people. The implication of the above on one hand, is that the welfarist program is at the mercy of the president who is all in all and that was what paved way for the use of Africa's imperial president. On the other hand, the benefits and burdens, right and privileges, power and wealth that supposed to be equally distributed to ameliorate poverty, reduce unemployment and provide social amenities suffers the test of fair distribution, hence the consequences of political instability and social disorder in the society.

To this end, this paper is to explore, through a theoretical approach, how to ensure a sustainable distributive justice in Africa. In doing this, the philosophical methods of conceptual analysis and reconstruction of ideas are employed to tackle this all important issue. Conceptual analysis is made to clarify key concepts such as decentralisation, constitutionalism, distributive justice and democracy. The reconstructive method, however, is used to modify Rawls's Difference Principle, which prioritizes the demand of social equality over that of liberty. This version of the Difference Principle is designed to ensure that social benefits and burdens are distributed equally to the advantaged society. It ensures adequate structures to be put in place to oversee the distribution of benefits and burdens in society; this would help to decentralise political power in ways that would enhance political representation and also meet the actual needs of the people in society.

CONCEPTUAL CLARIFICATION OF TERMS

Decentralisation

Several attempts have been made by scholars to define the term decentralisation. Some of the views considered for discussion here posits that decentralisation refers to the allocation of power in organisations or social structures usually from the higher to the lower-level structure(s)/organisation (s) (Encyclopedia of Pol: 545). This definition emphasizes the shift of power from the center to the units, and the structures concerned are the hierarchical organisation internally differentiated into sectors or subdivisions, or a territorial organisation differentiated into levels of geographical space.

Also, Rondinelli (1981: 137) defines decentralisation as the transfer or delegation of legal and political authority to plan, make decisions and manage public functions from the central government and its agencies to field organisations of those agencies, subordinate units of government, semi-autonomous public corporations, area

wide or regional development authorities; functional authorities, autonomous local governments, or nongovernmental organisations. This view as presented spells out the types of power delegated from central to the agencies. Rondinelli, however identifies political and legal power which include authority to plan, decide or manage their affairs. Given the above, decentralisation in its most general term, following Boko, is the transfer of authority from a central government to a sub-national entity (Boko, 2002: 1). But beyond this general definition, the process of decentralisation is a complex undertaking, taking on different meanings in different contexts and according to the desires and plans of those in charge of its design and implementation.

Going by the general overview of what decentralization stands for as presented above, the next question that may come to mind is what are the ways through which power may be devolved from the center to the sub-national level. This is known as the forms of decentralisation. It should be noted at this juncture that decentralisation can be political, administrative, fiscal, or economic.

Forms of decentralisation

There are three notable forms of decentralisation, these are; deconcentration, delegation, and devolution. Deconcentration involves the shifting of work load from central government to the sub-national level. In other words, decision making authority is shifted from central or one individual (the president) to lower levels of the government. However, there is an argument against this view that the shifting of workload may not really result to decentralisation. According to Fesler (1968: 373), "to move workload out of the capital may be efficient and convenient for the public and may even promote a feeling that government is close to people. But this may not involve any decentralisation of power, that is, it may not provide the opportunity to exercise substantial local discretion in decision making". Meanwhile Fesler's observation may not be too important to the African nation because of the need for development which government presence may guarantee.

Delegation is another form of decentralisation where decision making and management authority for specific function is transferred to semi-autonomous organisation or units. Delegation of functions from central ministries to such organisations as public corporations, regional planning and area development authorities represent a more extensive form of decentralisation than deconcentration. It should be noted that one of the western public administration theory's prescription for a reform and modernisation in the third world has been to delegate more functions to public corporations and special authorities.

Devolution is the third type of decentralisation. In this case authority for decision making is transferred to the local government. Devolution is argued to form the foundation for political decentralisation because it involves the transfer of responsibilities to local government that elect their own councils, raise their own revenues and make decision independently of the central government. On this note devolution represents the concept of separateness, or diversity of structures within the political system. It implies divestment of functions by the central government and the creation of new units of governance outside the control of central authority.

Constitutionalism

For the purpose of ascertaining the proper meaning of constitutionalism, there is the need for us to examine what constitution itself is. Constitution is seen as the whole system of government of a country, the collection of rules which establish and regulate or govern the government (Momoh and Akhaine, 2017: 4). In a similar view, constitution is the embodiment of the basic or fundamental laws that operate in the political administration and government of a state (Onyekpe, 2001: 2). The above view identifies constitution as a collection of rules and fundamental laws as what regulates and guides the administration of government in a state.

According to Cecile Fabre, a constitution is a set of norms that gives structure to a body politic and regulates the way it should be run, and which is not amended and repealed as easily as ordinary law. It usually, but not necessarily consists of a written document that has a certain internal coherence and unity, and which lays down the conditions under which it can be changed (Cecile, 2006: 68). A constitution, therefore, by its very nature, lays down the rules where by the polity should be governed. It is in principle provides the ultimate legal framework through which rational-legal behavior is defined: The failure to maintain an agreed set of state objectives and institutions through which to achieve them (Okoli, 2003: 83). By way of summary, constitution is the totality of the rules and regulations, both legal and non-legal which ordain, order, regulate and sustain the government of a given country (Clampham 1986: 50). The word legal as used in this definitions means those rules which the law courts of the country recognized and abide by.

The foregoing meaning of constitution laid emphasis on rules, laws and legal framework for the operations of the government. The implication of this is that it guarantees only formal rights and equity, whereas what people need mainly is the functioning rights and equality. On this note, according to Momoh and Akhaine (2017: 5), a difference often exists between the letter and the spirit of a constitution, hence the crisis of a constitutionalism.

Constitutionalism therefore, has to do with something far more important than guaranteeing rules, laws and legal framework. According to Ihonvbere (2000:15), constitutionalism is:

"A process of developing, presenting and utilizing the political compact that defines not only the power relations between political communities and constituencies, but also defines the rights, duties, and obligations of citizens in any society".

Essentially, the focus of what we mean by constitutionalism is on two issues; first, the process of constitution-making and the extent to which it is popular and democratic, and second, the available openings, institutions, and process of making the constitution a living document by taking it to the people so that they are in a position to not just have access to it, but that they understand it, claim ownership and deploy it in the defense of their individual and collective rights and the democratic enterprise.

The above stated definition of constitutionalism brought to bear the main purpose of what the legal documents is meant to achieve. It is not only to show the power relations between political communities but also to establish the rights, duties and obligations of a citizen in any given society.

Distributive justice

Another concept that is central to this paper is distributive justice. This concept centers on how benefits and burdens, rights and privileges, powers and wealth, are distributed or shared among the people in a society. It demands the fair or equitable distribution of the goods, privileges, work and obligations of a society to all the members (Omoregbe, 1993: 113). By the word benefit we mean, those things that bring advantages or improve the life of people. Examples of these include, wealth, income, food, shelter, power, right, liberties and so on. Burdens are duties and obligations. However, duties and obligations are those things that must be done because it is morally and legally right. Distributive justice therefore primarily focuses on how those things which are meant to improve the life of the people on one hand, and what should be morally and legally done by the people, on the other hand, in society are to be shared. Thus, the unfair allocation of goods and services by the state to its members is tantamount to a direct violation of distributive justice. Bodunrin (1989: 36) avers that social justice is distributive justice. According to him, it is concerned with those principles which best ensure an equitable distribution of the goods and benefits of a society. Goods and benefits must here not be understood in a purely material sense only. They include material resources, education, and all those things for which society accords respect and recognition, good education, good jobs, and the opportunity and means to attain all those things that

tend to promote human happiness. In a similar way, according to Young (1990: 16), the distributive paradigm defines social justice as the morally proper distribution of social benefits and burdens among society's members. The distributive definition of justice often includes non-material social goods such as rights, opportunity, power and self-respect.

The social goods meant for distribution in a society, as itemized in the definition above, demand some explanation. Firstly, wealth in a simple economic term is anything, which has value because it is capable of producing income (Mitton, 1974: 19). In another sense, it is the sum of all assets minus liabilities (Lipsey, 1998: 11). Secondly, income is a gain derived from the use of human or material resources (Mitton, 1974: 19). In other words, income is what one earns from work or what one receives from investment. The third point is opportunity. This talks about chance to do something, i.e. chance to get a job and so on. It is about choosing one alternative rather than another. Fourthly, power is the ability to achieve something, whether by right or by control or influence. It is also the ability to mobilize economic, social or political forces in order to achieve a result (Blackburn, 2005: 286). The last point is self-respect, which is all about self worth. It is associated in the Kantian tradition with possessing equal rights with others, and with the capacity to see one's actions and patterns of life as consistent with one's own values (Blackburn, 2005: 333).

The above listed clarification reveals how each of the social goods differ from one another and how important they are to every individual in the society. A society where these are unfairly distributed is susceptible to all forms of conflict, disorder and crisis. However, in spite of the necessary obligation, the state has to allocate proportionately the benefits and burdens of the society among the members; this cannot be on the basis of strict equality but according to needs, merit and the abilities of its citizens. Otherwise, unfair allocation of goods and services by the society to its members directly violates the idea of distributive justice. Meanwhile, the principle of distributive justice may be denied by the laissez-faire individualist who claims that the duty of government is to be restricted to defending the citizens against violence, and enforcing the claims of the aspect of justice, which demands respect for the right of others alone. Distributive justice imposes certain obligations on the government to see that an enabling economic environment is created in order to help individuals to realize their highest potential and happiness (Ekei, 2001: 164). This implies the provision of needed amenities, like rural electrification projects, efficient and affordable telephone facilities, good network of roads, subsidized system of education and other welfare services. All these and many more are the society's obligations towards the individuals.

In the African traditional setting, collective efforts were put together to build roads, and bridges, to erect mud and thatch houses for individuals, and this is often carried out in turns. In this context, the individuals' limited efforts are pulled together to achieve a common goal aimed at enhancing the welfare of each of the members. Here, care must be taken to understand that distributive justice is not aimed at establishing "equality" of distribution among the members of the community. Rather, it is primarily focused on giving a 'fair`, and equitable distribution of resources within a given society. Although, "justice", as such, is rooted in "the fundamental equality of all men, demanding equal treatment, equal distribution of goods, rewards, punishment, under normal circumstances", such equality, in actual fact, is better considered as "the equality of proportion" (Ekei, 2001: 164). In other words, due to some discrepancies, inequalities and varied needs found in every social set up, it is more appropriate to talk of the equitable distribution of resources (based on equality of proportion), than 'equal distribution'.

THE CHALLENGES OF EMERGING DEMOCRACY

Having clarify some of the basic concept of this paper, the next line of thought is to examine few, out of the myriads of the challenges facing democracy in Africa. Central to all the problems is the one that has to do with the structure of the society. The structure of the present African state as it stands, is not one that can promote decentralization, constitutionalism nor ensure equality or fairness in the distribution of benefits and burdens in the society. The state, apart from being the center for the exercise of all legitimate powers of coercion, also plays a very significant role in the allocation of benefits and burdens and, more generally, in the promotion of human interests. Indeed, according to Oladipo (2008: 13), much of the difference between a viable and a pathological society in the contemporary world can be traced to the effectiveness with which the state is able to play these dual roles.

The reverse is however the case in most African states. The characteristics of African states include, among others, inequality, which promotes conflicts, clashes, wars, disorder and lack of respect for the rule of law, all forms of oppression and dispossession. All these put together weaken the social order and deprive the state from being an instrument for the achievement of a well ordered society.

The conflict that is experienced in most African nations today is an evidence of injustice in the way benefits and burdens are distributed among the people in the society. A close look at some of these nations would show the extent of injustice. Cote d Ivoire, for instance, which gained independence from France in 1960 was known to be a beacon of stability with relative peace for many years, but conflict emerged in the contests for power and control of resources, which led to war between the north and south of the country. Also, the civil war in Sudan over

the years has largely been the consequence of inequalities in the political structures and the proportional sharing of income from oil resources, job opportunities and so on.

However, until 1994, South Africa was ruled by a white minority government using policy of apartheid, which disenfranchised and impoverished the black majority of the country. The legacies of apartheid, which include low skills capacity, poverty, unemployment, wide income disparity and high incidences of crime, form till date, some of the consequences of violation of distributive justice. Also, the violence that lasted for several decades in Rwanda located in Central Africa came as a result of historic and modern inequalities between the Hutu majority and the Tutsi minority. The aforementioned nations of Africa are few examples among others of the places where inequalities resulted in unending crises.

The problem of colonial public administration and the state structure

Another side of the problems affecting the African state, as noted by Oladipo (2008: 13), is the fact that the transition from colonialism to independence was achieved without the resolution of the key problems associated with the ideas and practices of colonial public administration. In the same vein, Ifeanyi Menkiti (2002:35), in the same line of thought, provides a clear picture of this when he writes thus:

"The European partition of Africa, formalized at the Berlin conference, has left the continent with an illogical pattern of ethnic distribution, a crazy guilt in which organic groups were split apart, or else pushed together, without regard to their own internal needs. As the crowned heads of Europe scrambled for Africa, Africa became so scrambled that the geographical map of the designated countries no longer bore any relationship to the normative or cultural map. No doubt this misdistribution, in so far as it forestalled the organization of indigenous resistance, made the job of governing the territories easier for the European powers. But its effects on the African peoples themselves have not been so fortunate. Issues of economic exploitation aside, one of the effects was to retard the natural evolution of political institutions within these indigenous societies".

The first effect of colonialism on the African state as identified above is the inability of the colonialist to mold a common citizenship from the disparate ethnic groups brought together arbitrarily to form colonial territories. Although according to Oladipo (2008: 15), colonialism accelerated the process of the emergence of multinational states in Africa, no serious effort was made by the colonialists to ensure that these states evolved as viable nation-states. The newly created states were primarily instruments of control and dispossession; they could

not generate the feelings of support and loyalty, which could promote national cohesion in Africa. This is the origin of the problem of the alienation of the people from the state and the emergence of the phenomenon of ethnic self-definition and self-defense, which has been a serious obstacle to the achievement of national cohesion and stability in many post-colonial African states.

Let us use the Nigerian state to illustrate the structural problem many African nations are battling with. The Nigerian state came into being as a colonial state in 1914, after the amalgamation of the colony of Lagos and the northern and southern protectorates of Nigeria. The British colonial authority did nothing to integrate these political units after the Richards constitution of 1946. According to Elaigwu (2005: 344), colonial rule encouraged vertical relationship between the local administrative units and the colonial centers of power. The result was that Nigerians of northern and southern provinces never had an opportunity to interact politically until 1947 (under the Richard constitution). This led to suspicion and fears as people of one political unit found themselves interacting with one another as strangers. They had no opportunity of building mutual confidence among themselves through horizontal forms of interactions.

However, the dissatisfaction of Nigerian nationalists who were at the forefront of the agitation for independence with the level of Nigerian participation in government led to a number of constitutional reforms between 1951 -1957. These reforms saw the gradual federalization of Nigeria's unitarist colonial state. As the prospects of independence became clearer, Nigerian politicians withdrew into their ethnic enclaves to mobilize for competitive politics. Mutual fears and suspicions of domination among ethnic groups generated intense pressures on the colonial administration for a federal Nigeria (Elaigwu, 2005: 344).

The 1954 Lyttleton constitution made provision for the devolution of powers to the regions. By 1959 the three regions, Eastern, Western and Northern regions secured self-governing status, as autonomous units in Nigeria's federal structure. On October 1, 1960, Nigeria attained political independence and the first Nigerian constitution provided an opportunity for a federation operating in the context of a parliamentary democracy.

According to Elaigwu (2005: 344), by independence, there were two basic issues (generating fears and suspicions among Nigerian groups), which had been left unresolved:

a) The structural imbalance in Nigeria's federal system, and
b) The differential spread in the pattern of Western education.

Let us begin by looking at the structural imbalance in the federation. It may be argued that one of the problems in operating Nigeria's former constitution was the very

structure within which Nigeria operated her federalism. The imbalance in the federal structure generated fears of domination among various groups in the country. The Northern region for instance had 79.0% of the country's total area as compared to the Eastern region's 8.3%, the Western region's 8.5% and the Midwestern region's 4.2%. By the 1963 census figures, the Northern region accounted for 53.5% of the total population of Nigeria, the Eastern region 22.3%, the Western region 18.4% and the Midwestern region 4.6%. Thus for the three southern regions, the federal structure in operation made it virtually impossible for the south to control the political power at the center, given the ethno-regional politics in the country. The south thus feared– *the tyranny of population by the North* (Elaigwu, 2005: 345).

The above analysis indicates that the federal structure as operated posed some problems for the concept of distributive justice in the Nigeria state. These are within the context of one group monopolizing the leadership of Nigeria. This makes it imperative to address the issue of structural imbalance of the Nigerian state and the consequent problem of inequitable distributions of power and privileges. It is until when these structural imbalances with their implications on decentralization, constitutionalism and distributive justice are deliberately addressed before democracy can be meaningful.

In the same vein, central to the problem of the state in Africa as a whole and Nigeria in particular is the excessive centralization of the federal system. Most nations of Africa practice federalism with a strong center, although scholars have suggested that the high unitary streaks in the Nigerian federation for instance, were the result of a number of factors. These were (i) military rule, (ii) the civil war, (iii) the creation of states, (iv) the increase in petrol-naira; (v) demands for federally desirable harmonization; (vi) international trade and globalization (Eliagwu, 2005: 257).

Military rule is one of the institutions that have come under severe attack. According to Olowu (1990: 207), military rule centralized political power. First, it altered very appreciably the balance between the federal, state and local governments. Second, it also altered the balance between the three arms of government; the legislative, judiciary and executive (Olowu, 1990: 208). The nature of military rule by decree strengthens the central or federal government to assume the functions reserved for the erstwhile regions. Several responsibilities of the regional and indeed local governments were taken over by the federal government. Certain popular institutions of representation such as higher education, television stations, agricultural marketing which were on concurrent legislative list, were transferred to the exclusive list of the federal government. Thus, the federal government acquired powers, which made it more powerful than the regions and indeed the local governments. The point here is that power meant to be shared between the regions or states thus became inequitably distributed among the tiers of government.

Also, the creation of additional state was supposed to meet the demands of subnational groups for greater autonomy. But the reverse was the case: the greater the number of states, the stronger the federal center and the more imperative the role of the center taking necessary homogenizing actions in matters which transcend each state. This federal-state-local government relation had not at any time promoted distributive justice. It should be noted that it is the state and the local governments as tiers of government, which are close to the people at the grassroots where the least advantages members of the society are situated. Thus, the benefits meant to be distributed to improve their well-being are far from their reach.

The problem was not limited to the military era; it grew worse even in supposesedly democratic dispensation. Some relevant examples, which generated conflict, include the National Minimum Wage (NMW). President Olusegun Obasanjo, on May 1, 2000 announced a national minimum wage of ₦5, 500 for states employees and the rest of the society, and ₦7, 500 for federal employees. The president neither consulted with the state governors nor the National Assembly (NA) (Eliagwu, 2005: 261). Close to this is the introduction of the Universal Basic Education program. This programs is aimed at providing free universal basic education from primary school to the first three years of secondary school. The federal government announced this programmes and went ahead to launch it before the bill was sent to the National Assembly. State governors complained of lack of consultation. They also claimed that the matter was under the concurrent legislative list, and that since the federal government was going to depend on states for the implementation of the programme, states should have been adequately consulted.

With several other relevant examples of neglect and lack of adequate distribution of power among the component tiers of government after long periods of military rule, over- centralization of power at the center has posed a serious threat to the concept of distributive justice. Furthermore, the total dependence on revenue from petroleum resources for the running of the economy is another issue that further enhances centralization. The federal government derived greater resources than subnational units, especially from profit tax, and to worsen the situation; the federal military government adjusted the revenue formula in favor of the center, thus give advantages to the federal center at the expense of states.

At this juncture, it should be noted that the centralization of political power under the military made the center a financial titan, as military rulers altered the revenue formula as they deemed fit. They did not debate the formula at any legislative forum, except at the Armed Forces Ruling Council or the Provisional Ruling Council.

There have been calls for the revision of the legislative list and accompanying tax powers in favor of local government and states. The logic of this argument is that the federal center has too much funds at its disposal, thus encouraging it to engage in policy adventures into areas it should not go (Eliagwu, 2005: 267). The revenue meant to be devolved round the tiers of government for meaningful project beneficial to the citizenry was not properly allocated, and this in a way amounts to a denial of dues.

The point here is that the excessive centralization of the Nigerian federation has done more harm than good especially in the area of equitable distribution of benefits and burdens in the society. James Wunsch and Dele Olowu (1990: 10) opined that the policy of centralization has established institutions, which have worked in different ways to hinder, stifle, or even at times to erode human development in Africa. It has in the first instance facilitated exploitation and abuse of power by the powerful. According to them, when political power is concentrated in the hands of some and effectively removed from the hands of others, it requires only the mildest assumptions of human fallibility, self-interest, or indeed, paternalism-cum-limited knowledge, to expect some to pursue policies at odds with the interests of others. Such situations as observes lead to political conflict, economic disruption, and social deterioration (Wunsch and Dele Olowu 1990: 10).

The point we are making here is that centralized federalism denies the opportunity for self-expression, autonomy and also prevent avenues for negotiations towards attaining equity and justice. This, in a way, has hindered the meaningful distribution of power, opportunity and resources, which could have improved the well-being of the people in the state.

The state and economic problem

Apart from the political crisis of the state, there is also an economic dimension to the crisis with its own implications on the idea of distributive justice. The impact of Africa's economic downturn has varied among different African countries; the overall trend is however that of a crisis situation (Uroh, 1998: 98). The failure in the socioeconomic aspect of African nation has without doubt had a devastating effect on the well-being of the people. The state has not been able to deliver to the people basic things that are necessary for their existence. One pertinent question here is how Africa got entangled in the present situation? Many answers, no doubt, come to mind especially when one looks at the various contributions of scholars in this direction. We shall concern ourselves with only two factors, external and internal.

By external factors, we mean inherited economic structure. Colonialism, thrust Africa into the world capitalist system dominated by metropolitan forces that operate under harsh individualism and by so doing, created a new world (economic) order in which Africans were (and still are) ill equipped to compete (Uroh, 1998). The continent of Africa thus faces a difficult situation in its economic relations with the developed countries. This relationship has kept most African nations under a perpetual crisis and disadvantages till date. In the word of Milton Obote as noted by Oladipo (1998: 109):

"Our economy is the economy of a poor country that must look for market abroad, and the commodities that we produce we sold mostly abroad in Western Europe. And when we want to buy raw materials and plants from Western Europe, they also fix the price. So heads we lose, tails we lose".

The economic situation in which African finds itself is such that turns her to consumers of what it does not produce. The colony was simply a place where the colonizing power found it convenient to carry out some of its business. Hence, economic relationship between it and the metropole was conceived in terms of an exchange of African raw materials and markets, on the one hand, and European industrial goods on the other (Oladipo, 1998: 109). In other words, the colonial economy was essentially organised and managed to service metropolitan needs.

Given the above, the economic activities put in place by the colonialists were primarily designed to meet their selfish needs rather than the needs of the people. Modern needs, railways and seaports, for instance, were meant to facilitate the exploration of raw materials for processing to become finished products. Claude Ake (Ake, 2001: 32), quoting Walter Rodney comments on the economic infrastructure in African colonies as such that:

"Had a clear geographical distribution according to the extent to which particular regions needed to be opened up to import/export activities. Where exports were not available, roads and railways had no place. The only slight exception is that certain roads and railways were built to move troops and make conquest and oppression easier" (Ake, 2001: 32).

The message here is clear: the economic activities of the colonialists were aimed at meeting their own needs and not for the distribution of infrastructures which could help improve the well-being of the colonized. Here, the colonial situation depicts a denial of distributive justice; benefits and burdens were not fairly distributed.

The point then is that the external influence has contributed immensely to the creation of scarcity, inadequate funds and resources to provide the needed facilities for the wellbeing of the people. Scarcity and limited resources, which hinder fair distribution of benefits and burdens, brought about suffering and all sorts of

hardship, which are said to be responsible for violence and unrest in most of these nations. The crisis being experienced in the society are indeed reactions to a form of injustice being experienced by the people. Although in the recent time, some African nations, like Nigeria, were granted debt relief, it should be noted that it would take more years of meaningful economic reforms to recover from many years of debilitation.

Now, coming back to some internal problem of economic crises, the failure of the Nigerian economy for instance, has been linked to the negative political and corrupt practices of the political leaders. The act of unjustifiable mismanagement of the nation's economic resources by the successive government has resulted in poverty, which is endemic in the country. According to Ujomu (2002: 212), corruption and mismanagement of the economy have led to the paralysis of every sector of nation's life, for instance, social services, manufacturing, agriculture, etc. This situation has created a fertile ground for conflicts in the country, owing to the fact that the needs, hopes and expectations of the bulk of the citizens for security, prosperity and well-being, have not been adequately met. He argued further that the Nigerian economy has retained a disarticulated production base, a monocultural production structure, a degraded environment, and the predominance of subsistence and commercial activities.

These characteristics of underdevelopment have a direct effect on and as well create a problem of distributive justice. A production base that is disarticulated cannot sufficiently generate goods capable of taking care of the people with a minimal purchasing cost. Crude oil mined in Nigeria, for instance, is being taking outside the country before it is imported again for distribution at a very high cost. Economic plan is mainly based on oil while other mineral resources that would have added more values to the economic growth are neglected. Economic activities are narrowed down to the role of primary producers and mere consumers of manufactured goods. All these put together characterize underdevelopment and show what incapacitate the distribution of benefits and burdens in the society.

The above submission reveals the exact picture of the economic situation of most African nations with various implications on the social and economic condition of the people more importantly the less privilege group.

TOWARDS THE ATTAINMENT OF A STABLE SOCIAL AND POLITICAL ORDER IN CONTEMPORARY AFRICAN SOCIETY

The need for decentralisation and constitutionalism of the governing structures of the nations in Africa is long overdue. For the democratic system to witness fundamental changes that will strengthen the existing structures in order to bring benefits to the people, the role of decentralisation and constitutionalism cannot be overemphasised.

The United States Agencies for International Development (USAID, 2010) itemised some goals of decentralisation in Africa. These include (a) political stability (b) stable democracy (c) development and service delivery. It is obvious that ever since independence, the continent has been battling with political instability largely due to the problem of incessant cases of coup d'état, civil wars and all sorts of unrest. However, scholars have observed that in the face of these, decentralisation has also enhanced stability by giving different regions and population groups a meaningful stake in the political system. The pockets of ethnic violence and conflicts is largely due to the fact that sub national autonomy has not been fully implemented.

Secondly, decentralisation has brought about stable democracy. It has further improve transparency, enhance government responsiveness, by giving voice to group such as women and favor the dispersal of decision making. Thirdly, decentralisation has enhanced development and guarantee service delivery. Research has shown that to improve efficiency and provide incentives for economic growth, competition among local government must be encouraged. But the condition for this theory seems not to fully hold yet in Africa.

Similarly, the agitation for constitutionalism and a redesign of constitution to put an end to authoritarian one-party rule and military usurpation of state power is on the increase in Africa. Many nations had called for convocation of national conference to resolve some of the issues that have to do with control of extractive natural resources, as well as fiscal federalism and how powers should be decentralised amongst the federating units (Momoh and Akhaine 2017: 2).

Bentsi-Enchil (1965: 65) argues that states need to establish stable political and constitutional orders that promote development and aid the fight against poverty, hunger, disease and ignorance, while also guaranteeing citizens the rule of law and equal protection of the law. The point here is that for the people to realize their dreams of rapid economic development, which will better their lives, the state must pay attention to the organisation of political, economic and social order through an established people oriented constitution. To ensure a stable social and political order, through the process of decentralisation and constitutionalism for effective distributive justice, the structure to ensure this must be put in place.

It is against this backdrop we adopt, Rawls theory of justice, especially his difference principle as a theoretical framework capable of ensuring a structure for effective decentralisation, constitutionalism culminating in distributive justice. Rawls (1993: 258) sees the primary subject of justice as the basic structure of society. According to him, the basic structure is understood as a way in which the major social institutions fit together in one system and how they assign fundamental rights and duties and shape the division of advantages that arises

through social cooperation. Thus, the political, the constitution, the legally recognised forms of property, and the organisation of the economy, and the nature of the family, all belong to the basic structure.

Rawls theory of justice requires that the first principle of justice. Which is the equal basic liberties principle, must first be satisfied then the difference principle comes into play. The difference principle, however, requires that the basic structure of a society be organised to allow inequalities only if they are to the greatest benefit of the least advantage members of society (Rawls 2003: 96). In a more concrete term, the difference principle regulates permissible differences in rights, power, and privileges. It defines the limits of inequalities in wealth, income, powers, and positions that may exist in a just society. Also, it shows how a just economic system distributes income and wealth so as to make the class of the least advantaged persons better off than they would be under any alternative economic system.

Given the above, in practical terms, most of the post-colonial African nations are characterized with inequalities. There are wide gaps in wealth, income, power and positions and the implication of these is that the least advantaged group is grossly affected. Thus, Rawls difference principle receive its justification against the background of ensuring a regulation, which would make social structure distributes income and wealth to improve the condition of the least advantage, so that no one will be worse-off in the society.

Basic Structures and Institutions requires for attaining social order

To establish a viable and sustainable social, economic and political order in Africa, there are certain key structures and institutions that must be strengthened. This is necessary, if the distribution of benefits and burdens, which decentralisation, constitutionalism and distributive justice is to be possible in this emerging democracy. One of the very first important institutions necessary is leadership. The institution of leadership is crucial for the effective and efficient distribution of benefits and burdens, because most African nations suffer neglect and setback due to the effects of bad leadership. In a way, the kind of leadership needed to ensure an effective and efficient distribution of social goods to the advantages of all and more importantly the least advantaged is such that embraces and cherishes good human value system. Leaders with vision, clear sense of purpose and mind for service towards ensuring the well-being of the people are qualities needed from the leadership that would bring about a change in the present social, economic and political situation of most African nations.

However, the emergence of this kind of leadership cannot be isolated from the choice of the people, that is, through a credible and transparent democratic electoral process. It should be noted that the leadership that is capable of delivering justice to the people, by giving each his or her dues, without minding the ethnic, religious and party affiliation, is such that is a direct product of the choice of the citizens and not by imposition. To witness a revival of social order for the improvement of the well-being of African people through the distribution of primary social goods that all people want, the role of a well institutionalised leadership cannot be overemphasised.

Although leadership is crucial in the attempt to establish distributive justice, it cannot by itself provide the enabling conditions for stability, security and well-being if the institution is lacking moral responsibility, a duty of perfect obligation. Morality is fundamental to the establishment of a good leadership institution because it helps to provide and enforce rules for the harmonious adjustment of the interests of individuals to those of others in the society. Morality seeks to uphold rules, such that can guarantee harmony and differentiate between right and wrong, good and evil. Also, morality instills in people good character and helps to treat others in a way that deserves social recognition and dignity.

The question of how power can be used humanely in order to ensure equitable distribution of benefits and burdens is that the means of attaining the position of power should be through democratic process, and the values of democracy such as separation of power, accountability, due process and so on will allow power not to be abused. Furthermore, good governance as a mark of purposeful and humane leadership demands the establishment of an independent judiciary, for the purpose of ensuring respect for the rule of law and human right. This is another important institution necessary for sustaining social order. The judiciary is expected to uphold the constitution, which is the legal and authoritative document that depicts the way individuals; associations and the society at large should be governed. It spells out, for instance, power and rights, emphasizes the separation of powers among the political office holders; it reduces the possibility of arbitrary powers and concentration of power on an individual or groups of people. The duties of government towards its subject as well as individuals' responsibilities to government in order to achieve reciprocity between the two. These among others are what the constitution aimed at ensuring.

Central to the need of independent judiciary in Africa is the quest for justice, the need to determine how the state would control the national resources in such a manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality. How distribution of benefits and burdens would be done to the advantages of all, especially the less fortunate. The constitution seeks to define what is right by creating a system of laws whose foundation is hinged on justice, fairness, equality and freedom.

It should be noted that for the nations of Africa to

experience a new social order, such that will guarantee an effective and efficient distribution of benefits and burdens, the role of the judiciary cannot be undermined. To make judiciary a strong institution that will meet the quest for distributive justice in post-colonial nations of Africa, there must be a constitutional categorical statement, revealing a federal system of government intended to lessen conflicts between state structures and the forces of society, and to minimize the danger of the partisan control of the state by dominant sections of socially plural nations. According to Ekeh (1989: 20), most federal arrangements in Asia and Africa have been aimed at settling the claims of the forces of society against the partisan control of state resources to the disadvantage of significant minority sections whose separate existence is compelled and defined by some primordial principle. According to this view, federalism is a governmental solution to inter-community conflicts. Given the above argument, the constitution must reveal the devolution of power in the states and how the resources available should be distributed more especially to the grass root level where the poor masses can benefit and enjoy a meaningful life and well-being.

It is of a truth that the democratisation process going on in most Africa nations at present promised some ideal programs aimed at ameliorating poverty and reducing the unemployment rate have been put in place, but one of the only ways by which these reformation can last and outlive each democratic regimes is to make it constitutional and justiciable. Experience has shown that genuine efforts to effect changes many a time are mere reforms whose strength fizzles out with time, especially in most nations of Africa.

The citizens on the other hand should be educated and empowered constitutionally to seek for justice through the legal means i.e. the judiciary. This is where the role of the judiciary becomes necessary; there is the need for the establishment of an independent judiciary that will demand for the respect of law and human rights. Once the citizens know that their cry and plea can be heard at the bar especially when they have the perception of being denied of their dues, there would be a kind of restraint on the part of government to do the right things.

In addition to the point mentioned above, another important key institution necessary for ensuring decentralisation, constitutionalism and distributive justice is the educational institution. The school systems beginning at the primary, secondary and tertiary levels can be effectively used to mobilize the citizens especially the youths towards developing a value system for social order. Multiethnic societies like those in Africa need proper enlightenment on how to cherish and uphold the rights, freedom and liberties of groups and associations in the society. Educational programs are needed to promote the idea of equality of treatment and fair representation among the various groups in the society.

If proper educational programmes are arranged both at

the school and community levels i.e. through the mass media, there will be less of conflict, war, and all forms of unrest that characterize the present Africa societies. The people that are aggrieved would channel their grievances to the appropriate quarter and as well be equipped to seek for justice at the court of law rather than taking laws in their own hands. Education would keep the young people focused on personal achievement in life than remaining in ignorance and constitute nuisance to the society. The government and other agencies would also by obligation, ensure that they distribute wealth, income, resources and power fairly and equitably to the advantage of all once there is the awareness that the people are well enlightened and can seek redress for any violation or denial of their rights and due benefits as contained in the nation's constitution.

CONCLUSION

In this paper, efforts have been made to examine the role of decentralisation, constitutionalism for a sustainable distributive justice in Africa. In doing this, a theoretical analysis of the basic concept in the paper was done for a clear understanding. Decentralisation as a concept reveals that political stability would be possible when the basic structure of the society can guarantee autonomy as power will be distributed to sub-national unit.Also, the devolution of resources towards the improvement of the well-being of the people will also be made possible. The constitutional order, which will promote development, and aid the fight against poverty, hunger, disease and ignorance and as well establish the rule of law and equal protection of the law will be sustained. Issues that have to do with control of extractive natural resources fiscal federalism and how power should be decentralised among the federating units will all be guaranteed. When the benefits and burdens are distributed equally to the advantaged society, it will undermine ill-will between the privileged and less privileged, which is a source of tension that generates political instability and social disorder in most African nations. Rawls' difference principle ensures that the less privileged which constitute the majority are not constitutionally marginalised.

The paper considered the challenges of democracy and situated the main problem as such that have to do with the structure of the state. The problem of the colonial public administration and the state structure was examined, using Nigeria as a case study. While the state of the economy was equally discussed. The steps to take towards attaining a sustainable distributive justice and a stable social order were brought to the fore. The paper concludes by looking at some institutional structures that must be strengthened in the society. The institution of leadership, judiciary and education are recommended among others as a viable structure to sustain our democracy and deliver the dividend of democracy for the

well-being of the people.

CONFLICT OF INTERESTS

The authors has not declared any conflict of interests.

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