

Prerogative in John Locke's *Two Treatises of Government* and the Tyranny of the Obasanjo Presidency in Nigeria's Nascent Democracy: 1999-2007

by

Isaac Iorhen Akuva
akuvaisaac@gmail.com
Department of Political Science, Federal University,
Dutsinma Katsina State, Nigeria

Abstract

This study uses the idea of John Locke's prerogative of power in conjunction with the provision for prerogative of power provided in the 1999 Constitution of Nigeria as parameters to examine the practice of democracy in Nigeria from 1999 to 2007 under the leadership of President Olusegun Obasanjo. In this work it was found that there is a dichotomy between the principle of prerogative of power and the practice of democracy during the Obasanjo era. Therefore it is recommended that immunity clause on the chief executives provided in the 1999 Constitution of Nigeria need to be expunged to give room for legally accepted punitive actions on erring executives as enunciated by John Locke, and if not done, Nigeria's nascent democracy will continue to be at the mercy of tyrannical leaders.

Key words: prerogative, Locke, tyranny, Obasanjo, Nigeria, democracy

Introduction

John Locke was a 17th and 18th Century England philosopher, he lived between 1632 and 1704 in England at the time when the political situation in England was chaotic. It was the era when the monarch had great conflict with the parliament. It was the time when the monarch combined political and religious functions. At that time, the Roman Catholic Church under the leadership of the Pope wielded a lot of political and religious powers. The fusion of political and religious powers in the hands of the monarch and the Pope gave rise to several state administrative problems. The problems intensified because even within the Christian circle, not all the influential political leaders in parliament and followers were Catholics. Some were Anglican, Presbyterian etc. as a result they would not want to be subjected to the hegemony of the Roman Catholic, Anglican or the Presbyterian leadership.

Apart from the religious problem of the 17th and 18th Century in England, the monarchs were amok and power drunk. This was so partly because the monarch was regarded to have the Divine Right to act on behalf of God. Another reason for the arbitrariness of the monarch was attributed to the power of prerogative the monarch had: to take decisions without recourse to the law or parliament in other to meet emergencies; to cover the gap, in the absence of Parliament being in session and to bridge the gap in the law where it was silent on any issue. Eventually, the monarch turned to abuse the power of prerogative given to its office by the people. For instance, Charles II reached the height of impunity to the extent that he could on his own volition determine, levy and collect various types of taxes without the approval of parliament. Besides, Charles II attempted to impose his brother James II on the people against their wish which was vehemently rejected by the people. Due to the incessant administrative impunities of Charles II, his reign was eventually overturned in 1688 English Revolution.

The 1688 English Revolution took place before John Locke published the *Two Treatises of Government* in 1690; the book justified the 1688 Revolution in England (Laslett, 2003). In the *Two Treatises of Government*, John Locke was concerned with how the social contract system between the people and the ruler would be enhanced to promote an ideal state which will fulfill the purpose of creating the state. The power of prerogative was one of the instruments in the hands of the monarch to rule the people effectively, but it was abused in the 16th and 17th Centuries which generated political instability. One of the concerns of John Locke in the *Two Treatises of Government* was to come up with the attributes of the power of prerogative and how to practice it in a way which will enhance justice and meet the aspirations for introducing the principle of the power of prerogative in governance. Apart from the power of prerogative, John Locke enumerates other principles which could guarantee the effective administration of the social contract system in the society. Some of the principles include the consent of the majority of people in the choice of their leaders, separation of powers, constitutionalism and rule of law and impeachment. Eventually, these principles are invariably related to the practice of democracy.

The principle of the power of prerogative is essentially concerned with the power given to the Executive to use his discretion to take decisions without recourse to the law or the Parliament. Since Nigeria returned to democracy in 1999, the 1999 Constitution of Nigeria gives the Executive President the power of prerogative in carrying out the affairs of the country. Whereupon the return to democracy in Nigeria in 1999, Chief Olusegun Obasanjo was elected as the Executive President of the country from 1999 to 2007.

The major objective of this study is to examine the Presidency of Chief Olusegun Obasanjo in the light of John Locke principle of the power of prerogative in conjunction with the provision of the 1999 Constitution on the issue of the power of prerogative. The essence is to find out whether there were abuses of the power of prerogative from 1999 to 2007. If such abuses exist, the aim of this paper is to identify the implications of such abuses on Nigeria's nascent democracy.

John Locke's Principle of the Power of Prerogative

The Power of Prerogative is the authoritative right the Executive has to use his initiative to make decisions without consulting with the people or the Parliament in order to address issues of urgent need. Prerogative is an attribute of Locke's Social Contract Theory. Locke is concerned with how the power of prerogative is used by the executive, and insists that its application must be for the interest of the public and not for selfish interest (Mattie, 2005). According to John Locke:

Where the legislature and the executive power are in distinct hands as they are in all moderate monarchies and well-framed governments, there the good of the society requires that several things should be left to the discretion of him that has the executive power...this power to act according to discretion for public good, without the prescription of the law and sometimes even against it, is that which is called prerogative (Locke, 1690:176).

It can be inferred from the above statement of Locke on prerogative to mean extra- legal power and authority since it is carried out by the executive's sense of judgment which may not be premised on the general provisions of the laws but for the wellbeing of the society. The power of prerogative can be explained further to mean "Locke's endorsement of extra-constitutional power as a requirement of effective or enlightened political leadership" (Ward, 2005:720). The discretionary decision of the Executive is allowed as long as it does not prejudice the constitution and does no harm to the people. The Power of Prerogative given to the Executive is necessary because the constitution may be silent on some issues; second, there may be cases of emergencies deserving urgent actions and third, the legislature may not always be in session to take decision or the provision of the law may be very slow to deal with issues that requires expedient decisions (Locke, 1690; Mattie, 2005; Grant 1988). The Power of Prerogative is most often not questioned because it is supposed to be for the wellbeing of the society.

The power, whilst employed for the benefit of the community...is undoubtedly prerogative, and never to be questioned...in the point of prerogative employed for the use it was meant- that is the good of the people and not manifestly against it... For prerogative is nothing but the power of doing public good without a rule (Locke, 1690:177-179).

However, in the event that the executive abuses the power of prerogative to achieve selfish gains to the disadvantage of the public, it is the right of the people to decide and take action. According to Locke, it is the legitimate right of the people not only to resist the tendency of abuse of prerogative, it also the right of the people to prevent it from adverse manifestation because prerogative cannot be allowed to take the place of law and due process based on the power confer to the executive (Locke, 1690). When the executive takes undue advantage of prerogative for himself against public good he invites revolt against himself from the people (Sami & Shaikh, 2013).

That notwithstanding, according to John Locke the power of prerogative to the executive when questioned by the people or opposed, is not to take it away from him, but to declared that the power put in his trust to exercise in the interest of the public good was not applied to the right cause to benefit the public since no power in the society is allowed to be used at the expense of the society, "...prerogative can be nothing but the people's permitting their rulers to do several thing of their own free choice where the law was silent...prerogative belonging to him by right of his office..." Locke, 1690) as accorded to the executive by the people, hence, the people reserve the right to equally check the power given to the executive. Furthermore, in support of Locke, Ward states that:

...executive who exceeds constitutional authority ceases in that to be a Magistrate, and may be opposed, as any other man, the extension of prerogative beyond constitutionally delegated limits may be checked by express laws or active resistance...Locke first introduces his theory of the right of revolution in the context of his treatment of prerogative. The final arbiter in dispute of prerogative is the community who will easily decide (Ward, 2005:738).

In a situation whereby the Legislature is not in session and need be, the Executive could summon the Legislature to convene and make decisions deemed appropriate. In the event of the Executive abusing the Power of Prerogative, for instance to refuse to allow Parliamentary sessions, it is the right of the majority of the people to uncover such abuse and consider replacing the Executive if the people so wish. According to Ward, (2005) others may feel Locke's doctrine of prerogative is "extra-constitutional power" however, Ward maintains that it is not necessarily powers of being above the constitution, "Rather Locke understood just prerogative as a constitutionally authorized discretionary power delegated by the people to be exercised on trust within the parameters of legitimacy defined by the fundamental laws and structures of a given constitutional order" (Ward, 2005:721). John Locke actually states that prerogative must not be given in a way that it will undermine the function and powers of the constitution. Locke further stresses that nobody in the society can stand antithetical to the demand of the law hence the allowance of prerogative is not to legitimize usurpation and tyranny neither is it the supremacy of the executive in the society (Locke, 1690).

If prerogative power is delegated to the Executive by the people to be exercise on trust with specific goals and functions; being a trust, it means it can also be checked by the people when grossly abused against the public good (Locke, 1690). That is why Ward (2005) insists that prerogative is actually a minimalist attribute of democracy which can promote the efficiency of the system if properly applied in governance by the executive. Locke feels that the exercise of prerogative by the executive is to enhance the independence of the arms of government. John Locke claims prerogative is a necessary attribute of all well-established constitutional government. By and large, prerogative is a constitutional provision for constitutional democracies like Nigeria.

Despite the advantages attributed to prerogative, Mattie (2005) expresses worries about prerogative; his concern is the challenge the use of prerogative presents for constitutional democratic politics, if prerogative exist side by side with the law it will be difficult to avoid prerogative being arbitrary. Another challenge he identifies is the problem of the criteria with which to explain the extent to which prerogative would be adjourned abused and remedied within the context of the constitution. He then observes that: "...in principle, the relation between Executive prerogative and the rule of law is tense and ambiguous as between extraordinary and ordinary politics" (Mattie, 2005:79). These concerns raised by Sean Mattie seem to be genuine. Nevertheless the way his concerns can be verified is to apply the doctrine of prerogative to a democratic system where prerogative was practiced, the democratic experience in Nigeria from 1999 to 2007 presents a good platform for this adventure.

The Abuse of Prerogative of Power and the Tyranny of Obasanjo Presidency in Nigeria from 1999 to 2007

John Locke's theory of social contract regarding prerogative is premised upon the fact that the people or the community cannot make laws to envisage every problem that will arise in the society, no matter how all inclusive and participatory the people's constitution may be. For this reason, the people in their contractual agreement with their Executive representatives permit them to take decisions and implement them without recourse to the people, the parliament or the constitution. The Power of Prerogative as presented by John Locke in *The Two Treatises of Government* is the discretionary right given to the Executive Arm of Government by the people to take decision where the law is silent or as necessity demands, such decision should be in the interest of the public. Locke strongly emphasizes that the Power of Prerogative should be exercised for the good of the community and not to attain any selfish interest at the expense of the people. In Locke's words, "prerogative is nothing but the power of doing public good without the prescription of law" (Locke, 1690:179). The concern for this study on prerogative revolves around the issue of delegation of powers and how such powers of prerogative are exercised in Nigeria's practice of Democracy.

Locke states that the Power of Prerogative is the nonnegotiable right of the office of the Executive Arm of Government. In Locke's opinion, the right of prerogative is necessary because sometimes the due process may be too slow to meet emergencies or the law may not even have any provisions to address certain issues that may come up in the society. So, the prerogative right to the Executive is permitted by the people to meet unforeseen circumstances in the society to facilitate the smooth operation of the social contract system. Although the right of prerogative is unquestionable and inalienable, Locke suggests that when its application becomes harmful to public good or encroaches upon the liberty, live and property of the people or detrimental to the terms of the original social contract to the extent that the inconveniences are beyond which the people can bear, the people can alter the conditions of the right of prerogative accorded the Executive (Locke, 1690). Otherwise, Locke believes that the Executive is rational enough to act in the interest of the public to be allowed with such wild right of prerogative without the fear of the Executive doing any damage to the social contract.

The 1999 Constitution of Nigeria provides for the Power of Prerogative to the Executive President and the Executive Governors in Section 5(5), Section 175 and Section 212. Section 5(5) gives the Executive President of Nigeria the right to bypass the resolution of the Legislature (National Assembly) to declare war between Nigeria and another country if the security of the nation is threaten. Section 175 & 212 gives the Executive President and the Executive Governors of States in Nigeria “the prerogative of mercy” to pardon anyone convicted by the law. Another provision of the power of prerogative given to the Executive President is the power to declare “State of Emergency” on the whole country or any part of the country if threatened by insecurity, this is provided in Section 305 of the 1999 Constitution of Nigeria. Locke further stresses that nobody in the society can stand antithetical to the demand of the law hence the allowance of prerogative is not to legitimize usurpation and tyranny, it is not the supremacy of the executive in the society (Locke, 1690).

The most commonly applied power of prerogative in the Nigeria’s Fourth Republic from 1999 to 2007 is the ‘Declaration of the State of Emergency.’ A state of emergency is the last option available to the Federal Government of Nigeria to explore in other to redeem the country in whole or part of insecurity. It involves a six months temporary suspension of the routine political administrative businesses of the arms of government even the rights of the citizens where necessary to pave way for the full implementation of the rule to restore peace and security. The six month suspension is periodically extended until the aim of the emergency rule is realized before lifting the suspensions. Table 1 shows that, throughout the history of Nigeria since its political independence in 1960, state of emergency has been declared 8 times. The first was during the First Republic on 29th May, 1962 pronounced by the Prime Minister, Alhaji Tafawa Balewa on the Western Region due to political unrest.

Table 1: Cases of Proclamation of State of Emergencies in Nigeria from 1962 to 2014

Affected States	Capital	Date	Republic	Executive Leader
Western Region	Ibadan	May 29,1962	1 st	Alhaji Tafawa Balewa
Plateau	Jos	May 18, 2004	4 th	Chief Obasanjo
Ekiti	Ado-Ekiti	October 19, 2006	4 th	Chief Obasanjo
Yobe	Damaturu	December 31, 2011	4 th	Dr Goodluck
Borno	Maiduguri	December 31, 2011	4 th	Dr Goodluck
Plateau	Jos	December 31, 2011	4 th	Dr Goodluck
Niger	Mina	December 31, 2011	4 th	Dr Goodluck
Borno	Maiduguri	May 14, 2013	4 th	Dr Goodluck
Yobe	Damaturu	May 14, 2013	4 th	Dr Goodluck
Adamawa	Yola	May 14, 2013	4 th	Dr Goodluck
Borno	Maiduguri	November 17, 2013	4 th	Dr Goodluck
Yobe	Damaturu	November 17, 2013	4 th	Dr Goodluck
Adamawa	Yola	November 17, 2013	4 th	Dr Goodluck
Borno	Maiduguri	May 14, 2014	4 th	Dr Goodluck
Yobe	Damaturu	May 14, 2014	4 th	Dr Goodluck
Adamawa	Yola	May 14,2014	4 th	Dr Goodluck

Source: Author's Compilation, 2015

The state of emergency on the Western Region in 1962 was as a result of the political crises at the Western House of Assembly in Ibadan following the removal of the Premier, Chief Samuel Akintola by the Western Region Government. Chief Akintola was removed because he refused to continue with the minority and opposition party, the Action Group (AG) at the Western Region. Chief Akintola preferred to join and work with the ruling party, the Northern People's Congress (NPC). On his removal Dr. Moses Majekodunmi was appointed as the Sole Administrator of the Region. When members of the Western Region House of Assembly met at the Assembly's chambers to ratify the appointment of Chief Adegbenro as the substantive Premier, the supporters of Chief Akintola disrupted the session and turned it to a rowdy and fighting session which compelled the Police to intervene (Anifowose, 1982; Kehinde, 2014). The Proclamation of the emergency rule was to restore peace and unity in the Western Region.

In the ongoing Fourth Republic in Nigeria, State of emergency was proclaimed 6 times. According to Table 1, in 2004 it was declared in Plateau State, in 2006 it was in Ekiti State by Chief Olusegun Obasanjo. In 2011 a partial emergency rule was declared in three Northern States: Yobe, Niger, Plateau and Borno. It was declared four times in Borno, Yobe and Adamawa States, twice each in 2013 and in 2014 by President Goodluck Jonathan. The Nigerian Constitution is clear on the conditions to declare state of emergency. According to Section 3 of the 1999 Constitution of Nigeria, the President shall have power to issue a Proclamation of a state of emergency only when:

The Federation is at war; the Federation is in imminent danger of the invasion or involvement in a state of war; there is actual breakdown of public order and public safety in the Federation or any part thereof to such as to require extraordinary measure to restore peace and security; there is a clear present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measure to avert such danger; there is any other public danger which clearly constitutes a threat to the existence of the Federation (Section 3 of the 1999 Constitution of Nigeria).

The practice of the Power of Prerogative during the Fourth Republic in Nigeria can be traced to Chief Olusegun Obasanjo who in 2004 declared the first state of emergency in Plateau State due to the violent crises between Christians and Muslims. The Governor, Joshua Dariye and the Plateau State House of Assemble were suspended; retired Major General Chris Ali was whereupon appointed as the Sole Administrator of Plateau State for six months. Similarly, in 2006 President Obasanjo declared another state of emergency in Ekiti State in which the Governor, Ayo Fayose and the Ekiti State House of Assemble were suspended; whereupon Retired Brigadier-General Tunji Olurin was appointed as the Sole Administrator (Kehinde, 2014; Akuva, 2010). The State of emergency was due to the political crisis in Ekiti State where Governor Ayo Fayose and his Deputy, Abiodun Olujimi were insisting that they were still the substantive leaders of the state despite their impeachment.

The illegality associated with the state of emergency rules in Plateau and Ekiti States was the unconstitutional termination of the social contract between the people and their elected representatives. Chief Obasanjo as the President had the right of the power of prerogative to proclaim state of emergency to restore peace and security but did not have the right to interfere with the political choice of the people by removing the elective representatives of the people from office before the expiration of their political tenures. His action was an interference and breach of the people's consent.

Table 1 shows that President Goodluck Jonathan in 2011, 2013 and 2014 declared state of emergency rule in Borno, Yobe, Adamawa, Plateau and Niger States which did not result to the suspension or removal of the political representatives of the people as in the case of President Obasanjo. The state of emergency proclaimed by President Goodluck in 2011 was partial and short-lived unlike the state of emergency rules in 2013 and 2014. The state of emergency in 2013 in Borno, Yobe and Adamawa was extended 3 times due to the persistence of insecurity of lives and property in those States (Kehinde, 2014).

Since 2009, the Islamic Religious group known as ‘Boko Haram’ has been terrorizing the Northern States with Borno, Yobe and Adamawa being the worst hit. Their operations involve detonation of bombs in public places, abduction, taking communities on hostage and the destruction of lives and property.

For instance, on 14th May, 2014 over 200 school girls were abducted at Borno State Government Girls College at Chibok by ‘Boko Haram’ and taken hostage, their whereabouts as at the time of this study was still not known by the Federal Government of Nigeria neither were they rescued as at the time this study was conducted in 2016 (Adetayo, 2014, Marama, 2014; Soni, Omonobi & Agbakwuru, 2014). Table 2 shows some of the schools attacked by Boko Haram killing scores of students from 2013 to 2014 in Nigeria.

Table 2: Attacks on schools since July 2013 blamed on Boko Haram

S/No	Date	Place	State	Victim
1	June 17 2013	----	Borno	9 killed
2	July 6 2013	Potiskum	Yobe	42 killed
3	September 29 2013	Gujba	Yobe	40 killed
4	February 25 2014	Buni Yadi	Yobe	43 killed
5	February 26-27 2014	Shuwa	Adamawa	25 killed
6	April 14 2014	Chibok	Borno	276 Abducted
7	November 10 2014	Potiskum	Yobe	47 killed

Source: Adapted and updated from Soni, Omonobi & Agbakwuru, (2014)

From 6th August, 2014 the ‘Boko Haram’ terrorist group captured and ceded territories in Adamawa, Borno and Yobe States hoisting their flags signifying successive conquest. Some of the communities that were affected were: Baza, Gwoza, Mubi, Mitchika, Vintin, Madagali, Uba and Chibok (Marama, 2014). On 10th November, 2014 a suicide bomber disguised in a school uniform detonated bombs in the midst of students at Potiskum High School in Yobe, Adamawa State which killed 48 students on the sport while others were injured and rushed to different hospitals for medical attention. Table 2 shows a cross section of some of the activities of Boko Haram which threatened the security of the states in which President Goodluck Jonathan has been proclaiming state of emergency since 2013.

Table 3: Some cases of attacks and bombing in Nigeria from 2011-2014 by Terrorist in 5 Northern States which experienced State of Emergency

	Date	State	Event	Victim
1	5 th April 2011	Yobe & Borno	Attack on Churches by terrorist	90 Killed
2	8 th April 2011	Niger	Attack in Mina	1 Killed
3	26 th April 2011	Borno	Attack in Borno	Figure not stated
4	7 th April 2011	Borno	Explosion in Maiduguri town	Many injured
5	25 th Nov. 2011	Niger	Bomb blast at Church	45 Killed 80 injured
6	21 st April 2011	Borno	Bomb explosion in Borno	2 Killed
7	31 st May 2011	Borno	Attack on Police station in Maiduguri	1 Killed
8	28 th May 2011	Borno	Attack on Mammy Market	13 killed 40 injured
9	1 st June 2011	Borno	Attack on Police station in Maiduguri	5 Killed
10	4 th July 2011	Borno	Bomb Blast at Maiduguri town	4 Killed 10 injured
11	13 th July 2011	Borno	Bomb Blast at Maiduguri town	5 Killed 2 injured
12	29 th Aug. 2011	Plateau	Clash between Christians & Muslims	20 Killed 50 injured
13	17 th Oct. 2011	Borno	Attack on Police Barracks	14 vehicles burnt
14	4 th Nov. 2011	Yobe	Attack on Churches	100 killed
15	20 th Dec. 2011	Yobe	Bomb blast at Yola	3 injured
16	22 nd Dec. 2011	Borno	Clash between security & militants	68 killed
17	25 th Dec. 2011	Niger	Attack on St. Theresa Catholic Church	No record stated
18	25 th Dec. 2012	Borno	Attack on Churches in Maiduguri	27 Killed
19	25 th Dec. 2012	Yobe	Potiskum	
20	5 th -6 th Dec. 2012	Adamawa	Attack on Igbo people	22 Killed
21	5 th -6 th Dec. 2012	Gombe	Attack on Deeper Life Church	6 Killed

2 2	16 th Jan. 2012	Adamawa	Attack on Christ apostolic Church	16 Killed
2 3	20 th Sept. 2012	Plateau	Attack on Jos	9 Killed
2 4	17 th Oct. 2012	Plateau	Attack on security personnel	4 Killed
2 5	19 th -20 th Dec 2013	Borno	Attack on Baga	228 Killed
2 6	6 th July 2013	Yobe	Mamudu Secondary School attack	41 Killed
2 7	29 th Sept. 2013	Yobe	Attack on College of Education Gujba	50 Killed
2 8	11 th Jan. 2014	Borno	Attack on Kawuri Community	85 killed
2 9	11 th Feb. 2014	Borno	Attack on Konduga Community	39 Killed
3 0	25 th Feb. 2014	Yobe	Attack On Federal College Buni Yadi	59 Killed
3 1	6 th May 2014	Borno	Attack on Gambarru Community	300 killed
3 2	2 nd Jan. 2014	Borno	Attack on Christians at Gwoza	200
3 3	25 th Nov, 2014	Borno	Bomb explosion at Maiduguri market	33 Killed
3 4	27 th Nov. 2014	Adamawa	Bomb blast at Main market in Yola	50 killed
3 5	28 th Nov. 2014	Kano	Bomb Blast At Kano Central Mosque	150 killed & over 100 injured

Source: Adapted from Okpata & Nwali (2013) and updated by the Author, 2015

The evidences available in Table 1, Table 2 & Table 3 shows that, the state of emergency rules proclaimed by President, Goodluck Jonathan met the 1999 Constitution conditions for the declaration of state of emergency. Clearly lives, liberties and property were threatened in Yobe, Borno and Adamawa States. The power of prerogative given to the Executive helped President Goodluck Jonathan to take urgent steps to explore avenues to restoring peace in those troubled states without bureaucratic bottle necks to protect lives and property. So far, as at the time of this study, the ceded territories by 'Boko Haram' were recovered by the Nigerian Military deployed to the troubled states as a result of the emergency rule. The difference between the state of emergency proclaimed by President Obasanjo and Goodluck Jonathan is that, in the case of Obasanjo the representatives of the people were removed from office illegally, President Obasanjo over stepped his constitutional power of prerogative and disrupted the peoples social contract with their representatives whereas Goodluck respected the peoples representative and did not unseat them. Obasanjo's action was an abuse of the power of prerogative.

The removal from office democratically elected Governors of Plateau and Ekiti States was unconstitutional and undemocratic. President Obasanjo interfered with the fundamental rights of the people which they exercise in choosing their leaders. By unconstitutionally, removing the executive governors of the people from office President Obasanjo violated the people's right and abused the 1999 Constitution of Nigeria which in the long run was diametrically opposed to John Locke's idea of the principle and practice of the power of prerogative in a social contract system. This abuse of power by President Obasanjo was responsible for the political and governance crises in Plateau and Ekiti States; whereby retired military officers were imposed on the people in a democratic dispensation.

The abuse of the power of prerogative by President Obasanjo amounted to what John Locke refers to as tyranny and usurpation of power. In the *Two Treatises of Government*, John Locke describes Usurpation of Power to mean four things; first, it is a situation whereby the leader of the people tries to perform the functions of another arm of government; second; to exercise political authority beyond what the law of the community prescribes for the leader. Third, usurpation of power is when the actions and decisions taken by the leader are for selfish interest rather than the wellbeing of the whole community and lastly, it is the illegal acquisition of political power without the consent of the people. When the leader behaves in any of those ways that constitutes usurpation of power is considered to be tyrannical. Locke sees usurpation of power and tyranny as the process of making use of power in a manner that does not safeguard the life, liberty and property of the people. Usurpation of power and tyranny exist where there is total disregard for the constitution and the rule of law. Locke sees tyranny as a situation where the leader lives above the law (Locke, 1690). The aim of usurpation of power and tyranny is to satisfy the personal ambition of the leader at the peril of majority of the people.

According to John Locke, usurpation of power and tyranny amounts to harassing, subduing and impoverishing the people. He concludes that, when the authority exceeds the power given to it by the law and makes use of duress to get thing done by invading the right of the citizens, such authority is to be opposed. To Plato, tyranny is when a despot leader monopolizes power to the disadvantage of the society, this breed abuse of power and amounts to political upheavals (Mbachu, 1998). The existence of usurpation of power and tyranny mars the effectiveness of social contract system and the practice of Democracy.

The Presidential System of Government being practiced in Nigeria's Fourth Republic clearly separates the functions of the arms of government to prevent unnecessary interference, usurpation of power and tyranny among the organs of government. However, the Executive under the leadership of President Olusegun Obasanjo tried to engulf the functions of the Federal Legislature and politics at the State levels with impunity in Nigeria. The attempt to resist the usurpation and tyranny tendency of the executive resulted to strained relationship between the organs of government in Nigeria (Elaigwu, 2011; Ukase, 2013).

In 1999, President Obasanjo ordered the deployment of troops to raze some communities in Benue State [namely Zaki-Biam, Ayiin, Kyado & Vaase], Odi in Delta State and Choba in Rivers State without approval from the National Assembly (Adebanwi & Adigwun, 2005; Chimee, 2011; Elaigwu, 2011; Tyoden, 2005).

The lives and property the government was supposed to protect were destroyed with impunity thus failing to keep the terms of the social contract he had with the people in line with the oath he took to protect the constitution and the wellbeing of the people. President Obasanjo's decision to demolish those communities did not show that he kept faith with his oath with the people of Nigeria. Since 1999 when those communities were destroyed no compensation has neither been paid to the affected communities nor explanations given by the President why he deployed soldiers to raze the communities of innocent civilians in cold blood. It was difficult to drag the President to court for prosecution because the 1999 Constitution of Nigeria immunises the President of legal actions against him. This provision of the 1999 Constitution to shield the Executive President from prosecution while in office hinders the effective practice of democracy and social contract system in Nigeria.

Furthermore, at the commencement of the Fourth Republic in 1999 President Olusegun Obasanjo was found interfering adversely in the functions and powers of the National Assembly beyond the provision of the power of prerogative to him. On 3rd June, 1999 President Obasanjo over turned the desire of members of the Senate to elect Chuba Okadigbo as the Senate President, he used money to get his way with Evans Enwerem this development divided the Senate Members between Chuba Okadigbo and Evans Enwerem-Obasanjo Group. The same manipulation and interference took place at the House of Representative in June 1999 in which President Obasanjo influenced the election of the Speaker of the House Alhaji Salisu Buhari against Alhaji Yar'Adua. President Obasanjo succeeded in planting the leadership of both the Senate and the House of Representatives in 1999. Alhaji Salisu Buhari was eventually relieved and of the post of the Speaker of the House and eventually evicted as a member of the House of Representatives for certificate forgery (Ukase, 2013).

The meddling in the elections of the leadership of the National Assembly by President Obasanjo factionalized the Legislators into those who support what the President did and those who were opposed to the interference of the President in the affairs of the Legislative House. These actions by President Obasanjo amounted to corrupting the Legislature as rightly observed by Grant who says that: "For the executive to attempt to corrupt legislators to secure a favorable majority in the assembly is as perfect a declaration of a design to subvert the government. Such corruption of legislative judgment is cause for resistance; the decision of the government is to be based on mature debate" (Grant, 1988:59-60).

The power of prerogative does not empower the President to amend any portion of the Constitution of the country or Electoral Acts sent to the President for presidential assent. However, in 2001 President Obasanjo illegally amended and signed Section 8 of the 2001 Electoral Act sent to him for Presidential Assent without consulting with the Legislature who enacted the Bill. The amendment implied that new and existing political parties had to win 10% of the Councillorship and Chairmanship Election position in the country to be qualified to participate in 2003 General Elections that were ahead. The manipulation was to scheme out some political parties from the 2003 elections. The amendment heated the polity of Nigeria, it was the Judiciary that douse the situation by declaring the secret constitutional amendment of the 2001 Electoral Act as illegal, null and void without effect; this paved the way for the registration and participation of more political parties in the 2003 General Elections against the purported plan of President Obasanjo.

Apart from the 2001 Electoral Act, President Obasanjo also unilaterally amended his party's constitution the PDP to make provision for the retention of the Ex-President as the Chairman Board of Trustee of the party, the post he converted. His manipulation with his party's constitution eventual made him the Chairman Board of Trustee of the party as an Ex-President of Nigeria (Ukase, 2013; Ojakaminor, 2007; Egwu, 2005).

President Obasanjo had total disregard for the checks and balances of the Legislature on the Executive as a principle of social contract between the people and their representatives. The President refused to appoint a Minister for Petroleum Resources; he served as both the President of the country and Minister of the oil sector for the 8 years (Ojakaminor, 2007). President Obasanjo hardly sought the approval of the National Assembly on some issues as demanded by law. For instance, he unilaterally scraped the Petroleum Trust Fund (PTF) and ordered for the demolition of all the Toll Gates in the country at the cost of 360 Million Naira and imposed the Fuel Tax Policy on the people without approval from the National Assembly. He equally appointed ambassadors without adhering to the Federal Character Principles as stipulated in the 1999 Constitution of Nigeria (Ukase, 2013; Akena, 2013; Ojakaminor, 2007). The blatant disregard for the Constitution of the country by the President was an incongruous political behavior and a ridicule of the democracy and social contract system in Nigeria.

The masses had to suffer the effect of the abuse of power by President Obasanjo and the strained relationship between his Executive led Government and the Legislature due to his disregard for the Constitution and the rule of law. For instance, in protest and reaction to President Obasanjo's abuse of power, in 2000 the National Assembly refused to pass into law the Niger Delta Development Commission (NDDC) Bill which was aimed at stopping the militia crises at the Niger Delta. The NDDC Bill was delayed for 230 days; the delay in the passage of the Bill deepened the woes of those who were victimized in the Niger Delta due to government insensitivity to the plight of the people. When the Bill was eventually passed, the President refused to assent to it because of the amendments done on the Bill by the Legislators; the National Assembly had to invoke its veto power to pass the Bill with a two third majority. The Bill was passed after so much damage had been done in the Niger Delta (Ukase, 2013; Ojakaminor, 2007). The Anti-Corruption Bill also suffered delay for 245 as a way of the Legislature to protest the autocracy and tyranny of President Obasanjo (Ukase, 2013; Ojakaminor, 2007).

Regarding the persistent abuse of the power of prerogative by President Obasanjo, Senator, J.K.N Waku accused President Obasanjo of being autocratic and called on the military to take over administration of the Nation; this was a dangerous call which had the capacity to overturn the social contract system in the country at that time. In effect, in April 2000 Senator Arthur Nzeribe tabled 13-Point allegations of constitutional breaches against President Obasanjo and requested for his removal (Ukase, 2013). Similarly, in August 2002, the House of Representatives under the leadership of Alhaji Umar Ghali Na'abba charged President Obasanjo with thirty-two Constitutional breaches and requested the President to resign his appointment or face impeachment (Abubakar, 2004; Akena, 2013). According to Abubakar (2004:163-164), some of the charges of power usurpation and tyrannical acts raised against President Obasanjo by Alhaji Umar Ghali Na'abba were:

The President violated Section 80(4) of the 1999 Constitution for amending the Appropriation Act by 44% without forwarding the amendments to the National Assembly for ratification; The President violated Section 162(1)(2) and Section 313 of the 1999 Constitution by issuing an order which amended the Revenue Allocation Act without recourse to the National Assembly; the President violated Section 80(2)(3) and (4) of the 1999 Constitution by constantly involving in extra-budgetary expenditure without any budgetary provision in the 2002 Appropriation Act. These extra-budgetary expenditure included: National Assembly contract; National Identity Cards project; the purchase of 63 houses and their furnishing for Ministers to the tune of N3, 019,153,178.06.

The President unilaterally ordered the deployment of troops to Odi in Bayelsa State and Zaki-Biam in Benue State where lives and property were totally razed without following due process thus violating Section 217 (2) C of the 1999 Constitution; the President refused to pay the 13% derivation revenue to the oil producing States contrary to Section 162(2) of the 1999 Constitution. But Obasanjo was able to find his way among the Legislators. He bribed most of the Legislators to stop the impeachment move. Senator Arthur Nzeribe confessed that the Executive, President Obasanjo actually bribed the Legislators to stop the impeachment (Ukase, 2013; Chimee, 2011).

In another development, Section 137 (b) of the 1999 Constitution of Nigeria provides for a four-year two term for Executives. In 2005 President Obasanjo attempted to amend Section 137 (1)(b) of the 1999 Constitution to smuggle in a provision that would allow him contest for the third time in 2007 elections, his intention to amend the constitution was not within the power of prerogative accorded him by the 1999 Constitution. Since this was unconstitutional, he illicitly bribed Senators with 70 million Naira each while the House of Representatives were each given 50 Million Naira to find his way through the national assembly, but his ambition was not successful (Olasupo, 2011; Ojakaminor, 2007).

The attempt by President Obasanjo to secretly amend the constitution was an act of tyranny, dictatorship and disregard for rule of law. President Obasanjo unconstitutionally abused his office at the expense of the state and the people. His third term ambition divided the National Assembly into the pro-third term and anti-third term; this division affected the smooth running of the activities of the National Assembly and the PDP. President Obasanjo frustrated members of PDP like Atiku Abubakar and Buba Marwa who wanted to declare their interest for the 2007 Presidency because he was planning to unlawfully run for the third time so he did not want them to come the way of the elections (Ojakaminor, 2007; Oni, 2014).

When the Nigerian Labor Congress (NLC) challenged the tyrannical rule of President Obasanjo, in 2004 the President sent a Labor Bill to the National Assembly to whittle down the influence of the NLC in the country. The Labor Bill did not go through as a result his desire to usurp the powers of the NLC was frustrated. He turned around to proposed the Public Bill Act of 2005 which sought to stop all forms of protests against the government; this was a military posture in a democratic system. But the Bill was declared illegal by a High Court in Abuja (Oni, 2014).

Similarly, contrary to Section 162(3) of the 1999 Constitution of Nigeria and the powers of prerogative to the Presidency, President Obasanjo withheld the Federal funds meant for Local Government Councils in Lagos. The Court declare that the President did not have the constitutional rights to withhold funds meant for any tire of government and was asked to release the funds (Oni, 2014). The action by the High court to stop the President's intrusion into the financial purse of other tires of government was synonymous to John Locke's argument that the people's property ought to be protected by the government and not to be confiscated without their consent (Locke, 1690).

In November, 24, 2003 security agents stormed the premises of Newsmagazine and arrested the Editorial team, Ms Janet Mba-Afolabi and Mr. Chuks Onwudinjo for publishing a story exposing the President Obasanjo's tyranny. When the Chairman of the PDP, Chief Audu Ogbe wrote a caution letter to the President on his tyrannical style of leadership, the President was angry with him and on 6th November, 2004 relieved him of the Chairmanship of the party (Ojakaminor, 2007). The regime of President Obasanjo was more of a military dictator who did not have respect for the principles of Democracy. He was found interfering with the functions of other arms of government, abused political power and acted in a way that was most often not beneficial to the people.

President Obasanjo in 2004 increased the pump price of gasoline from 43 Naira to 53 Naira without recourse to the National Assemble, he did not have the power to increase pump price without consulting with the National assembly. This illegality by Obasanjo led to nationwide strikes and protest which paralyzed the Nigerian economic and political activities. This illegality was inherited by President Goodluck Jonathan, for instance, on 1st January, 2012; President Goodluck Jonathan increased the pump price of gasoline from 65.00 Naira to 140.00 Naira per liter without consulting with the National Assembly the increase resulted to nationwide strike by the workers on 9th January, 2012 (Ukase, 2013; Udo & Mumeh, 2004; Omelle, 2005). In 2004 Chinua Achebe refused to honor an invitation by President Obasanjo for a National Award because of his tyrannical leadership style. Similarly, in 2013 Wole Soyinka refused to accept a National Award from President Goodluck Jonathan for his inability to handle the affairs of Nigeria effectively.

Concluding Remark

As far back as 1690 John Locke was concerned with how to come up with the best principles for an idea state. This concern was as a result of the political upheavals which he experienced in England which did not guarantee the wellbeing and freedom of the people. The prerogative of power which Locke identifies as one of the principles of social contract between the people and their leader was to facilitate the smooth running of the state. Incidentally, as Nigeria returned to democracy in 1999, the principle of prerogative of power was provided in the 1999 Constitution. From 1999 to 2007 President Obasanjo abused the principle of prerogative of power accorded him by the 1999 Constitution. The abuse of the prerogative of power by the President affected the practice of democracy in Nigeria.

The removal from office the Governors of Plateau and Ekiti States and the suspension of the State Houses of Assembly portended serious setback for democracy. The direct implication was the absence of the Legislative and the Executive arms of government in Plateau and Ekiti States. This was worrisome given that the dispensation was a democratic era. The people were directly denied their right to choose their leaders. Throughout the period of the suspension, laws were no longer made neither were laws executed in those states in line with democratic principles to meet the yearnings of the people. The military administrators who were imposed on the people were contrary to the principles of democracy and social contract theory. President Obasanjo acted beyond the powers given to him under the provision of power of prerogative.

President Obasanjo's order of the military to raze communities in Benue, Delta and Rivers States was responsible for the destruction of lives and property the civilian government was elected by the people to protect. The Obasanjo led government did not only arbitrarily interfered with the internal workings of the National Assembly but also corrupted it by bribing it with money to impede the impeachment initiated against him. This was the commencement of financial corruption at the National Assembly in Nigeria.

President Obasanjo's tyrannical tendencies were also responsible for the delay in the passing of very important bills like the NDCC Bill and the Anti-Corruption Bill. These delays were as a result of the strained relationship between the executive and the legislature which was predicated on the attempt by the national assembly to resist the tyrannical tendencies of the president which was almost usurping the powers of the National Assembly by the President Obasanjo led government from 1999 to 2007. The prerogative power to the Executive President does not in any way allow for such executive rascality exhibited by the Presidency in Nigeria from 1999 to 2007.

President Obasanjo abused the powers given to him by the 1999 Constitution because the same constitution immunes him from prosecution while in office. The immunity clause on the chief executives provided in the 1999 Constitution of Nigeria needs to be expunged to give room for legally accepted punitive actions on erring executives as enunciated by John Locke. Otherwise, Nigeria's nascent democracy will continue to be at the mercy of tyrannical leaders in the country.

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