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# OUTLOOK ON THE NIGERIAN DEMOCRACY



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## GENERAL OVERVIEW OF DEMOCRACY

The evolution and transition of each of the human institutions right from the earliest unit, families to clans, tribes, empires, nations and now to the borderless global society powered by technology has always had people as its foundation. The center piece of every government irrespective of its adopted system, remains the people. It is from the people that the legitimacy of a government is drawn. While a people can exist with no government, no government can exist without first the existence of a people and secondly, the collective consent and donation of power from the people to the government as well as the acknowledgment of the supremacy and authority of the government over the people under a social contract.

Every human institution had a beginning, and civil government is a product of progressive evolution just as much as are marriage, industry, and religion. From the early clans and primitive tribes, there gradually developed the successive orders of human government which have come and gone right on down to those forms of social and civil regulation that characterize the twentieth century.<sup>1</sup> In the course of this evolution and transition of the human institution, particularly, as it relates to human peaceful co-existence, relationship and governance is the birth of democracy; an inclusive political system, that is, a system of government in which all members have an equal share of power in decision-making and in representation.

The notion of democracy has evolved over time considerably. The original form of democracy was a direct democracy, while the common form of democracy today is a representative democracy, where the people elect government officials to govern on their behalf such as in a parliamentary or presidential democracy.<sup>2</sup> There is no practical alternative to majority political rule (that is, consent of the majority constitute the act of the whole and the same is binding on all) as it would be unpracticable to obtain the consent of every individual before acting collectively.<sup>3</sup>

In the common variant of liberal democracy, the powers of the majority are exercised within the framework of a representative democracy, but the constitution limits the majority and protects the minority usually through the enjoyment by all of certain individual rights, such as, freedom of speech or freedom of association.<sup>4</sup>

A more concise clarification of the concept “democracy” is best expressed in the words of Benjamin Disraeli, a British politician expressed in his 1826 novel “Vivian Grey” that:

*"...all power is a trust; that we are accountable for its exercise; that from the people and for the people all springs, and all must exist."*

The above is further buttressed in the words of Daniel Webster (an American lawyer, statesman and former United State (U.S) Secretary of State) who in a speech to the U.S. Senate in 1830 said:

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<sup>1</sup> The Urantia Book “Paper 70 - The Evolution of Human Government” available at <https://www.urantia.org/urantia-book-standardized/paper-70-evolution-human-government>

<sup>2</sup> Tangjan, Andranik (2020). Analytical Theory of Democracy: History, Mathematics and Applications. Studies in Choice and Welfare. Cham, Switzerland: Springer. doi:10.1007/978-3-030-39691-6. ISBN 978-3-030-39690-9. S2CID 216190330

<sup>3</sup> Locke, John. Two Treatises on Government: a Translation into Modern English

<sup>4</sup> Watkins, Frederick (1970). "Democracy". Encyclopædia Britannica. Vol. 7 (Expo '70 hardcover ed.). William Benton. pp. 215–23. ISBN 978-0-85229-135-1.

*"...It is, Sir, the people's Constitution, the people's Government, made for the people, made by the people, and answerable to the people."*

Although democracy is generally understood to be defined by equality, particularly in representation, voting and decision making, there exist no consensus on a precise definition of democracy. However, the general metric for democracy remains the inclusiveness of the people, hence, the common definition and tenets of democracy being **“government of the people, by the people and for the people”**.

## **ASSESSING NIGERIA THROUGH THE STANDARDS LENS OF DEMOCRACY**

The advent of democracy in Nigeria can be traced to the early years of her independence, however, the journey of Nigeria as a democratic nation between the periods of independence and the year 1999 was highly volatile and unstable due to the tyrannic and dictatorship rule of the military regime that dominated the said period. It was until the year 1999, known as the fourth republic, that Nigeria began to enjoy what can be termed a stable democratic rule. This return to democratic system of government birth the 1999 social contract known as the 1999 Constitution of the Federal Republic of Nigeria, an inclusive contract wherein “we, the people of Nigeria” agreed to rule ourselves by collectively consenting to the formation of a representative government to govern our peaceful co-existence, embrace the beauty of our diversity, promote our welfare, culture, peace and unity. Hence, our collective donation of power to the government as well as the acknowledgment of the supremacy and authority of the government over us, as a person, a people, culture, ethnic group, region and as a nation. This social contract executed by and binding on Nigeria and all Nigerians is best expressed in Section 14 under Chapter II (Fundamental Objectives and Directive Principles of State Policy) of the 1999 Constitution of the Federal Republic of Nigeria (CFRN) which states:

- (1) The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.*
- (2) It is hereby, accordingly, declared that:*
  - (a) sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;*
  - (b) the security and welfare of the people shall be the primary purpose of government: and*
  - (c) the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.*

The age-long topical debate as to the legitimacy, inclusiveness and adequate consultation and, hence, the bindingness of the social contract on all Nigerians from which the said representative government derives its power and supremacy remains a national topic void of a conclusive and satisfactory answer to all.

Democracy day is an annual commemorative day in Nigeria to celebrate Nigerian’s return to democracy in the light of tyrannic and dictatorship of the military regime that plagued the early history of Nigeria as an independent nation. However, the true practice of democracy by any nation cannot be decimated to an annual celebration or the mere provision of the constitution that the nation “shall be a State based on the principles of democracy and social justice”, rather, it is in the actual practice of the tenets of democracy. For the purpose of this paper, focus shall be driven to how Nigeria has fared as a democratic nation since the advent of the fourth republic in the year

1999. In ascertaining the trueness of the Nigerian practice of democracy, attention shall be particularly focused on the Nigerian practice of the following tenets of democracy:

- a. Equality;
- b. Majority rule;
- c. Government of the people;
- d. Government by the people; and
- e. Government for the people;

## 1. EQUALITY

Every citizen in a democracy is entitled to be treated equally with regard to the forms of conduct that constitute autonomous democratic participation. Equality in this respect mean equal access, resources, opportunity, treatment, rights and obligations in a relevant manner with no disparity on whatever ground. An unequal treatment makes the state loses its claim to democratic legitimacy with respect to her citizens. It is worthy to state that while equality constitute a major tenet of democracy, equity on the other hand, hold a different approach and application. "Democracy" and "equity" mean different things in different national contexts. Intrinsic to both concepts, is that there will be significant local variations within the institutional structures, the principles for representation, the fundamental legal regime and working ground rules for an equitable democracy. Some of these variations can be based on different cultural practices, on different historical experiences or on different ethical norms; some of the variations are political compromises derived from the balances of economic and social forces at the birth of the democracy; and others are the results of subsequent power demands to increase the degree of democracy or to diminish it.

Democracy continuously strives to reconcile the self-determination of individual citizens with the self-government of the state. This means that democracy must regard each citizen as an autonomous, self-determining person, at least insofar as is relevant to maintaining a live identification with the self-government of the state.<sup>5</sup> Hence the required balance between fundamental right of individuals and the limitations to the same rights.

In accessing the Nigerian democracy on the threshold of equality, it is required that the same is accessed through the cursor of social, political and economic equality.

- i. **Social Equality:** Social equality is a state of affairs in which all individuals within a specific society have equal rights, liberties, and status, possibly including civil rights, freedom of expression, autonomy, and equal access to certain public goods and social services. Social equality requires the absence of legally enforced social class or caste boundaries and the absence of discrimination motivated by an inalienable part of an individual's identity.<sup>6</sup>

Section 15 of the Child's Right Act, 2003, provides that every child shall have the right to free, compulsory and universal basic education and shall attends and complete both primary education and junior secondary education. In practice, the Federal Ministry of Education in the 2021 common entrance exam for Unity Schools birth

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<sup>5</sup> Post, R. (2006). Democracy and Equality. *The Annals of the American Academy of Political and Social Science*, 603, 24–36. <http://www.jstor.org/stable/25097755>

<sup>6</sup> Blackford, Russell (20 July 2006), "Genetic enhancement and the point of social equality", *Institute for Ethics and Emerging Technologies*

inequality and disparity in the performance and qualification requirement expected of each child based on region and gender. While children from some of the South-Eastern and South-Western States were required to perform as high as 139 points out of 300 points, some northern States, such as Zamfara amongst others were required to score just 4 points for males and 2 points for females to qualify.<sup>7</sup> Another form of inequality is the uncurbed insecurity rampaging some northern states that has denied children from such region access to their right to free basic education.<sup>8</sup>

Other forms of social inequality extend to the unaddressed environmental degradation of the Niger Delta region; quality of education, particularly at the tertiary level; standard of health services; law enforcement disparity resulting from corruption, social and political class favoritism amongst many others. It should be noted that even on standards of democratic equity, these inequalities remained unjustified and unjustifiable.

- ii. **Political Inequality:** this is the structured differences in influence over political decisions and in outcomes, that is, the dominance of the elite over the masses, and the systematic exclusion of particular social and economic groups from the influence on, and outcomes of, important decisions, manifests in political inequality.<sup>9</sup> Instances of such inequality ranges from gender participation and representation; exclusion of the younger generation in pertinent affairs of the nation; an exclusion based political association and loyalty, cherry-picking on judicial verdict to comply with and enforce amongst many others.

A more recent instance of such political inequality will be the national peaceful protest against the extra judicial activities of the Special Anti-Robbery Unit of the Nigerian Police Force tagged “EndSARS” and the way the situation was ill-managed by the government as well as the government’s unwillingness to heed the call of the people and to respect the report of the Judicial Panel of Inquiry, rather chose to abide by an afterthought White Papers decimating the findings of the Judicial Panel of Inquiry.<sup>10</sup>

- iii. **Economic Equality:** This is the unequal distribution of income and opportunity between different groups in society. Nigeria is Africa’s largest economy, yet her economy has grown without creating adequate opportunities for the broader population. Resources are unevenly distributed, resulting in persistent inequities across generations and regions. The poor are poor because the rich are rich; such an exclusion of the common man in the growth process hinders long-term economic growth and weakens national solidarity, evident in recent terrorist activities and calls for restructuring.<sup>11</sup> Regional economic inequality in Nigeria is striking, as there is an

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<sup>7</sup>Sahara Reporters - <https://saharareporters.com/2021/07/05/nigerian-government-puts-cut-marks-unity-school-134-average-south-east-low-2-marks>

<sup>8</sup> Voice of Africa news, 2022 “18.5 Million Nigerian Children Are Out of School, UNICEF Says”, accessed on the 25th May, 2022, available at: <https://www.voanews.com/a/millions-nigerian-children-are-out-of-school-unicef-says/6569716.html>

<sup>9</sup> López M, Dubrow JK. Politics and Inequality in Comparative Perspective: A Research Agenda. *American Behavioral Scientist*. 2020;64(9):1199-1210. doi:10.1177/0002764220941234

<sup>10</sup> This Day “Lagos White Paper Rips Apart Panel’s Report on #EndSARS” available at <https://www.thisdaylive.com/index.php/2021/12/01/lagos-white-paper-rips-apart-panels-report-on-endsars/>

<sup>11</sup> Stears Information – “Inequality in Nigeria is worse than it looks” available at <https://www.stearsng.com/article/inequality-in-nigeria-is-worse-than-it-looks/>

acute infrastructural underdevelopment of the rural region as against the urban area, which on the long run impacts the allocated revenue to the already disadvantaged areas, leading to mass emigration as well as overpopulation in the developed regions. Also, the National attitude towards the ownership and control of mineral and natural resources of each state of the nation also contribute gravely to the economic inequality in the country.

## 2. MAJORITY RULE

This is the most popular underpinning principle of democracy; a system of government whereby decision-making power is collectively vested on the people and exercised on the strength of the eligible numbers, wherein the people vote either directly or through their elected representatives/agents on options and the option that receives the most votes win and becomes the decision of the people. This does not however imply the oppression of the minority, rather, while the other options with the minority votes may not constitute the decision of the people, the system allow the protection of the minority rights, hence, guarantees the basic human rights that no government, and no majority, elected or not, must protect and never remove or deny the people its enjoyment. Such inalienable rights extend to the freedom of speech and expression; freedom of religion and belief; due process and equal protection under the law; and freedom to organize, speak out, dissent, and participate fully in the public life of their society.

Protecting the rights of minorities to uphold cultural identity, social practices, individual consciences, and religious activities is one of the primary tasks of democracy. Minorities need to trust that the government will protect their rights and self-identity.<sup>12</sup> This can mostly be accomplished through the democratic process of tolerance, debate, and willingness to compromise, whereby free societies will be able to reach agreements that embrace and balance the twin pillars of majority rule and minority rights. Once this is accomplished, all camps, whether those of the majority view or those of the minority view will feel the national inclusiveness, identify with the nation, promote the national identity, as well as, participate in, and contribute to their nation's democratic institutions

Assessing the Nigerian democratic practice through the test tube of the “majority rule and minority protection” principle of democracy, it obvious that while the nation is mostly administered on majority rule, little is done in the protection of the minority rights, making oppression of the minority inevitable. A more recent point of reference will be the six months ban on Twitter social media platform in Nigeria, following the EndSARS national protest. Twitter as at the time was the medium through which the minority, particularly the younger generation could readily access to make known their views, pains and exercise their rights of freedom of speech and expression; demand due process and equal protection under the law; speak out, dissent, and participate fully in the public life of the nation.

Another point of reference is the patterned inhuman and extra judicial treatment as well as the government response to the citizens exercising their right to freedom of expression and the press; right to peaceful assembly and association; right to freedom of movement; and right to freedom from discrimination, particularly where exercising such right is in not in line with the majority view and/or detrimental to the affairs and interest of the few elites. The peculiar situation with the

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<sup>12</sup> Principles of Democracy “Majority Rule, Minority Rights” available at <https://www.principlesofdemocracy.org/majority>

Nigerian democracy is that, sometimes the minority rule, while the majority helplessly watch (denied of their freedom of speech and right to peaceful assembly and association).

The effect of the above is the feeling of oppression, national exclusion and the inability to identify the nation's national identity, thereby leading to the mass exodus of the nation's intellects, sharp increase in crime rate, damage to the nation's image, dire state of national hopelessness, a crippling economy amongst many others. The minorities whether on criteria of ethnicity, political or religious belief, sexual orientation, geographic location, income level, or simply as the losers in elections or political views must at all times be protected no matter how alienated their views are from that of the majority.

### **3. GOVERNMENT OF THE PEOPLE**

Government of the people as a democratic tenet seeks to promote people's inclusiveness in the composition of its government, formation of its structure, and in the decision as to the officeholders, who must be from among the people. Hence, the people charged with the affairs of the nation, invested with the people's trust and elected as the people's representatives in government must be from the people, that is, must be a citizen of the country. This rule also posits that every citizen upon satisfying the citizenship requirement as well as other legal eligibility requirement is qualified to be chosen and elected into governance and should never be discriminated on grounds of class, ethnicity, religion, wealth, gender, skin colour and/or on whatever ground.

The democratic practice "of the people" in Nigeria remains unquestionable and undoubted. The composition of the Nigerian government since the birth of the fourth republic remains the citizens of Nigeria in line with chapter three (Citizenship) of the 1999 Nigerian constitution (as amended). *Section 106 (1) CFRN (as amended)* clearly states that to qualify to vie for the office of a member of the House of Assembly, such a person must be a citizen of Nigeria, while *Sections 132 (1) and 177 (1)* respectively provides that to vie for the office of the President of Nigeria and office of the Governor of any State in Nigeria, such a candidate must be a citizen of Nigeria by birth.

A point of debate on the above tenet will be whether or not qualified citizens by the legal standards has not been denied and discriminated against vying for political offices on grounds of economic strength, ethnicity, gender, religion amongst many others. Furthermore, the requirements set by the political parties for candidates to qualify in partaking in its primary election (a obligatory requirement to partake in the general election as the party's flag bearer for a particular office), particularly the financial subscription and investment could be termed as a tool to discriminate against certain class of legally qualified and interested persons. A situation which the Independent National Electoral Commission (INEC) has overtime failed to address.

### **4. GOVERNMENT BY THE PEOPLE**

Government of the people as a democratic tenet speaks to the inclusiveness and power of the people to decide and elect those people who make up the government and govern the affairs of the nation. This tenet of democracy in conjunction with the majority rule tenet of democracy advocates for free, fair and credible elections in how the people choose their representatives in government. The right to vote has a basis in the social contract theory. This is because every citizen in a state surrenders their right legitimately to the government through free and fair elections, and the government in turn protects the rights of the citizen.<sup>13</sup>

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<sup>13</sup> <https://www.manifieldsolicitors.com/2019/01/28/free-and-fair-elections-in-nigeria-a-commentary/>

In the Nigerian democratic practice, it remains unclear whether the Nigerian democracy is government by the people or government by the politicians (kingmakers). With the wake of money politics, vote buying, intimidation and threats, fraud, extreme poverty, partisanship by electoral offices and armed forces, under age voting and impersonation, diversion of electoral materials, theft of ballot boxes amongst other electoral malpractices as well as judicial pronouncements that has riddled the Nigerian electoral system and practices. One would wonder if the declared winner of some electoral polls are decisions of the people or that of the few political kingmakers. These malpractices remain a common feature that riddled elections under the fourth republic, denying the people their right to determine their government.

The elections now in Nigeria, can be describe as a tussle between those already in the circle and those who wish to join the in the circle using political parties as instrument. Both groups, in the course of this struggle, employs all forms of electoral malpractices, thereby creating tension and large room for election malpractices. Electoral malpractices have been a clog to the wheel of good governance. It is central to numerous socio-political problems facing many states, and Nigeria in specific, which if not curtailed, will destroy the foundation of fragile Nigerian democracy.<sup>14</sup>

## 5. GOVERNMENT FOR THE PEOPLE

Government for the people connotes that the very sole existence and essence of government is the people, that is, to protect the people, secure the people, their heritage and properties, provide for the people, educate the people, listen to the people, care for the people, maintain justice for and within the people. In summary the government is set up with a mandate to make the lives of the people better, promote their course, improve their living standard, make life easy for the people, and govern for the public goods of the people. Government for the people as a tenet for democracy serves as the people's contractual consideration in donating their powers to the government and acknowledgement of the government's supremacy over their affairs.

In the above light of the above, the entirety of Chapter II (Sections 13 -24) of the 1999 CFRN (as amended) is dedicated to promoting the people's welfare, fundamental objectives and directive principles of State Policy; while Chapter IV (Sections 33 -44) enumerates the fundamental rights of the people. Despite the beauty of the provisions of Chapter II (Sections 13 -24) of the 1999 CFRN (as amended) in promoting the welfares of Nigeria and listing the government's obligations towards her people, the same is best termed as "sunset at dawn" holding to the provisions of Section 6 (6) (c) of the 1999 CFRN (as amended), which state:

*(6) The judicial powers vested in accordance with the foregoing provisions of this section:*

*(c) shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution;*

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<sup>14</sup> Ewuga, Lucky Ekka "Electoral Malpractices in Nigeria; Civic Education as an Antidote" International Journal of Research and Scientific Innovation (IJRSI) | Volume VI, Issue VIII, August 2019 | ISSN 2321-2705 available at <https://www.rsisinternational.org/journals/ijrsi/digital-library/volume-6-issue-8/192-196.pdf>



By implication, the entirety of Chapter II of the 1999 CFRN (as amended) are unenforceable at law and are at best a mere guideline and a mirage of rights, hence, no right or liability can arise from the breach of any of the items contained in those sections. The sections contained in the said chapter II touches on rights of the people, which spans through: the fundamental obligations of the government to the people; sovereignty of the people as well as the people's security and welfare; political rights; economic rights; social rights; educational rights; foreign policy objectives; environmental rights; directives on Nigeria culture; obligation of the mass media; national ethics and duties of the citizens. These rights are meant to serve as a blueprint upon which government can make or formulate its policies and agenda in delivering the dividends of democracy and for the attainment of national goals and growth.<sup>15</sup> Furthermore, the continuation of the non-justiciability of these sections may result to lack of development, non-transparency and non-accountability by the executive and legislative arms of government, without any hope of a successful judicial challenge.<sup>16</sup> It is therefore hard to say that the Nigerian democratic government is actually one for the people, and the people by the same social contract with which they donated their powers, consent, supremacy and acknowledgement to the government, were robbed of their contractual consideration under the transaction and at the same time left with no remedy.

An interesting twist with the non-justiciability of Chapter II of the 1999 CFRN (as amended) is the provision of Section 24 which provides that:

*Shall be the duty of every citizen to -*

- (a) abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate authorities;*
- (b) help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;*
- (c) respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood;*
- (d) make positive and useful contribution to the advancement, progress and well-being of the community where he resides;*
- (e) render assistance to appropriate and lawful agencies in the maintenance of law and order; and*
- (f) declare his income honestly to appropriate and lawful agencies and pay his tax promptly.*

In the light of Section 6(6)(c) of the 1999 CFRN (as amended) which bars the justiciability and enforceability of the provisions of such section, would it then suffice to conclude that the citizens are not bound by such duties enumerated in the said section 24 except if any of the said obligations are repeated in other parts of the constitution. Furthermore, by the joint reading of Section 1(3) of the 1999 CFRN (as amended), it will therefore connote that except any of the said obligations are repeated in other part of the constitution, any other Act and/or Laws of the National and/or State House of Assembly mandating the same as justiciable will be void and declared a nullity.

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<sup>15</sup> BRIDGET EDOKWE "The Enforceability of Chapter 2 Of The 1999 Constitution of Federal Republic of Nigeria" available at <https://barristerng.com/the-enforceability-of-chapter-2-of-the-1999-constitution-of-federal-republic-of-nigeria/>

<sup>16</sup> Ikpeze, Ogugua. (2015). Non-Justiciability of Chapter II of the Nigerian Constitution as an Impediment to Economic Rights and Development. *Developing Country Studies*. 5. 48-56.

Section 1(3) of the 1999 CFRN (as amended) provides:

*(1) This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.*

*(2) ...*

*(3) If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.*

## **CONCLUSION**

In the light of the foregoing, the Nigerian democratic system is a long walk away from true democracy both in principle and in practice. This further inform on the rationale behind the national rampaging insecurity, the crippling economy, poor leadership and followership, disunity, lack of national loyalty, mass exodus of intellects, inadequate infrastructure, increase in crime rate and corrupt practices that has riddled the nation pre and post the fourth republic.

By all indices and benchmarks of democracy, Nigeria has failed to operate as a democratic country and to uphold the key principles of democracy. A democratic nation respects and appreciate the fundamental rights of her citizens, safeguard the minority right and listen to their voice, affords everyone enjoys equal access and opportunities, recognizes the people's sovereign power, and empower the people to scrutinize national leaders and demand transparency and accountability from their representatives/agents. A democratic nation appreciates and ensure free, fair, and credible elections and allow the existence of strong political parties and an effective media system.

As citizens prepare to return to the polls in 2023, Nigeria's delicate future hangs in the balance, as the democratic fate of a population of about two hundred million people and the largest black nation in the world sits on a keg of gunpowder of impending undemocratic practices waiting for the unfortunate opportunity to plunge the nation either into chaos, irredeemable collapse and/or be classified as a failed state. It therefore beholds on each and every citizen to awaken and arise from the longtime hopelessness, defend and take charge of their democracy, build the future in order to attain the dreamed great lofty height.

## **DISCLAIMER**

Thank you for reading this article. While we hope you find it informative, please note that same does not in any way constitute or amount to legal advice and must not be construed as such. However, if you have any enquiries, please contact the author, Matthew Samuel Tosin at: matthewtosam@fortlords.com; or: inquiries@fortlords.com.

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