

A Little New Light on the Dark and Darkening Matter Called Security in Nigeria: On Election Security

In the first piece with this title I had argued that the intention of the series was to use every opportunity to argue for the need to look deeply into the lack of philosophy of the dark and darkening matter of security from the point of view of scholarship through investigation and interrogation. I argued that I will use every opportunity to put the issue on the academic front burner in order to engender thinking and discussion on it. In the first exercise I revisited Mr. President's three agenda for Nigeria on his assumption of office.

I want to share an interaction I had with a colleague of mine who was researching and writing an article with security as a subject. The article is on election or election security. The February and March elections is the major item on the agenda of the government and most Nigerians and I had this in mind when I revisited the administration agenda in the last three and half years. The reason was that the administration promised and planned to consolidate on these agenda and it was vital to examine if there was anything to consolidate if and when Nigerians gave the president another four years.

The pressing issue for most discourses on the elections is on how to make the election SAFE for all Nigerians – aspirants, voters, observers/monitors and officials in order to enhance the credibility of the process and consolidate democracy in Nigeria. Making elections safe is where the dark and darkening matter of security comes into the fray. There have been numerous write-ups, op-ed, seminars, workshops, statements and discourses by private citizens, public officials, civil society/nongovernmental agencies, diplomatic representations particularly those of the USA and the European Union, concerned agencies including the so-called security agencies such as the police, civil defence and the military on the matter of making elections safe and most tellingly the discourses was couched around the theme "security of elections" or "elections security". The buzzword is SECURITY. This, perhaps, informed my colleague's research and thus our conversation.

The conversation was conducted through the social media application called whatsapp. The conversation:

Professor: [12/27/2018, 4:07 PM]: Hello Prof, compliments of the season. Hope you are enjoying the holiday. Please what do you consider the constitutional or legal constraints to election security in Nigeria? Thank you.

Response: [12/27/2018, 7:20 PM]: The 1999 Constitution did not define security. The Constitution merely alluded to security when it asserted the “security and welfare of the people...” (see the sub link “Stripping” for the article “The 1999 Constitution...” on <http://adoyionoja.org>) The article will be helpful in the discourse of the use of security in the constitution. What comes out as the definition or perspective of security stemmed from executive practices as popularised under military rule

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The first part of the question deals with two issues: election and security. In the real sense of it the major issue there is security. What is security? What then is election security? What is the constitutional position on security? Is there a constitutional constraint to election security?

The second part contained my response to the query. I noted that security had no definition in Nigeria. What transpired as security is the practice of the executive institutions/arms of the state – the military, intelligence and law enforcement or what I described as MILE. This practise was put into effect under military rule in the course of their roles as part state/institution and government. Nigerians were socialised into the perspective of security.

This perspective of security itself originated from the history, experience and reality of Europeans and Americans and for these countries their physical safety defined security. For the United States of America, the National Security Act of 1947 clearly defined security from the perspective of the role of the MILE in defending America’s interest outside and with the development after the 9/11 attacks inside America.

I noted that it originated from European and American histories, experiences and realities and universalised in the course of their roles in the development and propagation of institutions and values all over the world. However, this security did not reflect the history, experience and reality of other countries including and especially Nigeria’s. Thus I proposed the need to define and codified security in tandem with Nigeria’s history, experience and reality (HER) and I proposed that this responsibility was that of the

legislature – national and states – in tandem with their governance mandate under the constitution.

The constitution merely alluded to security in Chapter II Fundamental Objectives and Directive Principles of State Policy that the “security and welfare of the people shall be the primary purpose of government” (see section 14, 2b). Consequently, I had argued that the prolong military rule, the inability of both the military and civil rules to tackle and address the basic needs of the people through governance consistently since the mid 1980s and the ensuing economic and social crisis this triggered among the people meant that this “security” was translated and equated to the role of the MILE as institution/state in curbing the disorder that ensued and continue ever since.

When viewed in relation to the American and European focus on security as physical safety of state and people, theirs was not borne out of poor governance. Instead theirs was occasioned by the hostility that their actions around the world directed at ensuring stable and prosperous lives for their people elicited from other countries. In other word, the source of threat is essentially from the outside and thus it is tackled across borders. In Nigeria, Nigerians and the state is vulnerable hence the threat from the state against Nigerians and from Nigerians against the state.

To this extent, security is ambiguous in Nigeria and thus its application to any issue including election. However, when viewed from the point of practice and usage, election security mean the role of the MILE in ensuring the integrity, transparency, honesty and accountability of election through provision of safety to everyone involved in elections. It is primarily the constitutional role of the police and the civil defence to ensure safety and order before, during and after elections. Secondly, the president (section 217 subsection 2c) and the national assembly (section 217 subsection 2d) have the power to enlist the military to provide support to the police and civil defence and this is the provision that covers the military’s involvement.

Perhaps this is what defines election security. However, the roles of the police and the military are not defined as SECURITY. The police are empowered to provide and maintain law, order and safety. Section 215 subsection 3 noted the Inspector General shall take such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary...” The military is empowered to provide defence. Section 217 subsection 2a and 2b were specific on the defence role of the military. The role of the police and the military is not described in the constitution and other enabling laws as security. To the extent that their roles constitute security from the word secure, it

is reflective of their end products that secure. They – police and military – are not security in itself.

It was the preceding analysis which I did not provide in the whatsapp conversation that enabled me to conclude that:

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The second part of the whatsapp conversation may have clarified the Professor's initial doubt when the professor noted "beautiful, thank you". The professor continued "I have read my copy of the constitution severally and feel that it (217: 2c & 218:1) rather created a "window" for their use. I will read up on the link for more insight".

The word "window" is the right one for the use of the military in election matters since my guess is that the professor's concern is with the deployment of the military and not the police. Section 217 and 218 which the professor referred to covered the military – the army, navy and air force – in the constitution. The "window" or sections refers to the establishment of the military, purpose and powers of the president and national assembly on the command and operational use of the military. The professor's reference to "I will read up on the link for more insight" was a reference to my submission on the issue of the non definition of security in the constitution and the context of its use in the constitution of the country.

My interest as evident from my response since I have doubt if the professor and my concerns on the issue is the same is evident in the response to the second message. I noted that "both sections i.e. 217 and 218 – did not mention 'security'... Again I noted in my response that the president as the head of the executive that controlled the institutions of the executive including the army, navy and air force was justified by the sections to use the military for "security" inside Nigeria. I put security in quotation mark apparently in the context i.e. the executive practice pioneered by the military when it was in government called security that the professor perhaps meant.

I was emphatic in saying that “the sections – 217 and 218 – did not refer to security but to defence. Security and defence are related but different”, I concluded. Let me argue further that while we know the meaning of defence as used in the constitution from the operational use of the military, we do not know from the constitution the meaning of security in that sense except that the end-state of defence or defending is to secure.

Arising from what exist in developed countries particularly the United States that has legislation on security, whose governments come out with security policies and strategies in pursuit of the content of the security legislation, it is necessary that Nigeria emulate this process and procedure in shining light on the dark and darkening issue of security. Security is so important in the country to continue to leave this to chance.

So, when Mike Pompeo, the US Secretary of State noted in his Middle East speech at the American University in Cairo that nations of the Middle East will “never achieve security, economic prosperity...”, this security refers to the type covered in the 1947 National Security legislation and propagated all over the world by America in the pursuit of its national interest. Secretary Pompeo was referring to the type of security practiced in the United States that carries the trademark national security and emulated often erroneously as the solution to the problem of insecurity in most developing countries.

This security is represented by President Trump’s America First policy that seeks to ban Moslem from certain countries, tough on immigration and construct wall on the southern borders of the United States and Mexico. The money for building the wall is the reason for the face-off between President Trump and the Democrats control House of Representatives. The president shut down the Federal Government demanding over \$5billion from Congress to fund the construction of the wall.

This security focused on the MILE is the basis of relation between developed countries of Europe and America and developing countries in sub Saharan Africa. Europe and America have different bilateral and multilateral security relations with these countries. This security relation is at the prompting of Europe and America and seeks to accomplish one among the many security objectives of these countries. Security relation and other types of relations are seldom at the prompting of sub Saharan African countries. Thus Europe and America define this security in the context of their national interests. Europe and America are oblivious of the security orientation of countries of sub-Saharan Africa if at all they have one and in most cases assume that these countries have similar understanding of security with them.

One such security relation is the one in place in Niger Republic in the last three years. The security relation is at the behest of the European Union where Niger Republic is being transformed into the southern borders of Europe in West Africa. Under this arrangement aim at stemming the flow of migrants to Europe, the Nigerien parliament passed a law that banned migration. The authorities proceeded to enforcing the law in return for development aid.

For most of the three decades that security became the buzzword in governance and discourses of public affair in Nigeria, this Trump-Pompeo perspective of national security has been the focus and practice of administration after administration. This security is the belief in the military, intelligence and law enforcement or MILE as the guarantors of the country's security. This security is at the heart of the relation with the developed world post Cold War particularly following democratisation and the promise of investment. This security is the precondition for this elusive investment from the developed world.

Security, from the point of view of legislation and policy and from the point of view of scholarship, has never been turn inside out and outside in to determine its import within the context of its persistent application in Nigeria. In these years, Nigerians have been witness to the colossal resource appropriated and expended on this security; Nigerians have been witness to the persistent failure of this security; Nigerians should be wondering why nearly two decades into representative rule the legislatures have been unable to look into the darkening matter of security in order to shine light on security in tandem with the legislatures governance mandate of law making; the civil societies should have noticed that security as practiced in Nigeria is inadequate in so many ways to commence the process of advocating for the examination of its theory and practice, if there is one, and above all to call for security's reconstruction in line with Nigeria's history, experience and reality; alas the civil societies are too busy studying and keying into the interests of external donors than identifying local issues and evolving local solutions; alas the persistent failure of security should have registered on the legislatures for them to recognise that something is the matter with this darkening issue called security to commence re-examination; it is not the purview of the executive to re-examine security as it is practiced since the executive control the so-called agencies of security or the MILE whose constitutional role is public order maintenance and defence and not security; Nigerians have been witness to the convincing evidence of this security's failure administration after administration for Nigerians to demand conversation on this failed and failing security from its elected legislature across the states and federal level.

My conversation with the professor may not have originated from the same worries. I am concerned about security. The professor, I would assume, is concerned about whose role it

is to provide election security – the police or the military. For me I see the opportunity as one to shine light on the dark issue of security from the point of view of scholarship. I dare say that the professor may not be questioning the use of the word “security” to describe the work of the agencies of “security” or the MILE. The professor may have been concerned with the involvement of the military in election when it is essentially the role of the police and civil defence. The professor is looking for the “window” for the use of the military in election security.

There is need to CONSTRUCT security in Nigeria in the manner the United States of America to which we copy so very much constructed its security with its National Security Act of 1947. The National Security Act is a summary of what I constantly refer to as history, experience and reality – a summary of America’s history, experience and reality. To the degree that certain component of what the American called national security is universal, it is not a universal model as every country has different history, experience and reality and hence the need to use this history, experience and reality to construct its security world view. This National Security Act has remained the framework of security for the state, government and scholarship in America. What has differed is the individual government’s policy and strategy as demonstrated by that of the Trump administration.

Nigeria’s legislatures should take its cue from the American Congress and construct its security legislation within Nigeria’s history, experience and reality (HER). Unless this is done to set the framework for security in policy, strategy and scholarship, the confusion will remain and security – define as the military, intelligence and law enforcement (MILE) and outside History, Experience and Reality (HER) – will continue to fail as it has repeated failed previously.