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The Idea of Consent and its Implication in Nigeria: Rousseau's Views

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Abstract:

This paper centers on the idea of consent as postulated by Jean Jack Rousseau and its implication in Nigeria. Rousseau in his theory of consent presented a model which advocates for the increased and active participation of the ruled in a social contract. Consent is an essential feature of a democratic society. An ideal democratic society on the other hand is one in which the phrase "We the people" is lived out by the government of a state as well as other major stakeholders in the society. The implication of Rousseau's idea of consent in Nigeria highlights the need for inclusive and participatory governance in Nigeria. Rousseau argued that through the social contract we have given the body politic existence and life. It has become obvious that in regarding the state as the outcome of an agreement, certain fundamental issues touching on the existence of Nigeria and her nationhood need to be seriously addressed. The salient issues of convening the sovereignty national conference which has been widely canvassed.

Keywords: Consent, social contract, state, sovereign, subject, Rousseau

1. Introduction

The ideal purpose and nature of the state has been widely explored in political theory, thus, giving rise to the emergence of competing theories of state, exemplified in the emergence of the Social Contract Theory championed by Hobbs, Locke and Rousseau. The social contract theorist has argued that the state is the product of a contract, a covenant, an agreement, or a compact, which is brought about by the desire for man to enjoy his freedom and rights in a more orderly and secured environment (Alubabari, 2012).

Though, the ideas expressed by the pioneers of the Social Contract theory differ significantly, especially as it relates to the circumstances surrounding the existence of man in the state of nature, however, the outcome of a social contract remained a dominant view in the argument presented by the social contract theorist. The logical import of the social contract theory is exemplified in the nature of relationship between the 'sovereign and the subject', since the sovereign is a product of the contrivance of the people, by default, it becomes pertinent for the subject to decide how they should be governed. For this to happen, the constitution of the state therefore should in all honesty be 'The Constitution of the People' mirroring the aspirations and views of the people, which invariably translate to the advancement of democracy (Alubabari, 2012). 'Democratic laws essentially advocate for the promotion of the welfare of the greatest possible number; for they emanate from the vast population of the people, who (although) are subject to error, cannot have an interest opposed to their own advantage' (Tocqueville, 1998)

Consent is an essential feature of a democratic society. An ideal democratic society on the other hand is one in which the phrase "We the people" is lived out by the government of a state as well as other major stakeholders in the society. Broadly, democracy is seen as a governmental arrangement in which the aspirations and yearnings of the people serve as a template for the formulation of governmental policy statements, it is a government of the people, by the people and for the people. Though many nations have tried the democracy template, however; the attainment of ideal democracy has remained a mirage as no nation has been able to practice ideal democracy as preached by Rousseau (Grimsley, n.d). Rousseau in his perspective on the social contract theory advocated for individual liberty, as a way to demolishing the gap between the sovereign and the ruled. Thus, in his theory of consent, he presented the 'sovereign' as a dependent, limited, and not repressive power in contrast to the views expressed by Hobbes.

Rousseau in his theory of consent, presented a model which advocates for the increased and active involvement of the subjects in a social contract, thus, he argues that "through the social compact we have given the body politic existence and life; the issue now is to give it movement and will through legislation" (Rousseau, 1762). The implication therefore is that although in social contract, man surrenders his unlimited right and power which he enjoyed in the state of nature to a sovereign power, and become subjects in order for him to preserve his future limited rights as well as to enjoy this rights in a more secured and promising environment, man still have positive roles which are clearly explained by the concepts of authorization and consent. Going further he noted that consent occupies central position in commonwealth, as it forms a critical part of the foundation of such arrangements. For it is through consent that the sovereign draws its political

authenticity, the idea of consent also accords active roles to the subject as well as provide justifications for the obligations of the citizens (Martin, 1980).

Drawing inference from the Rousseau's theory of consent, it can be seen that the sovereign states exist because of the subjects who willingly surrendered their unlimited rights to It, and as such it is expected that the sovereign should pursue the interest of the subjects within accepted given limits stipulated by the constitution of the commonwealth. In a more practical term, government behaviors should be regulated by the desires of the people which are expressed in form of constitutions. Even though the people have surrendered their rights to a central power to be ruled, the liberty and freedom of the citizens to worship, speech, movement, association among others should in no way be suppressed by the central power (Alubabari, 2006). Rousseau's idea of consent presents a perfect state of democracy, where the government is of the people, by the people and for the people and the constitution is the people's constitution.

It is, therefore, no gainsaying that the Nigerian society following the attainment of independence in 1960 has failed woefully in the pursuit of a perfect democratic state advocated by Rousseau. It is, therefore, against this backdrop that this paper seeks to establish the implications of Rousseau's idea of consent in the Nigerian society.

2. The Social Contract

Social contract otherwise known as political contract is a theory or model which suggests historically how a civil state as an organizational structure came into existence. It has to do with the questions of the origin of society and the legitimacy of the leaders or authority of the state over the citizens. Social contract deliberation stated that individuals have been consented explicitly or tacitly to surrender some of their remaining fundamental rights. Not minding that social contract views seem to mean that such contract is attained at some point in the past. Rousseau never saw it in historical perspectives since he admits that there is no way one can discover evidence for such an event. It is a plain truth which is present or available wherever there is a legitimate government (James, 2011). For Rousseau, at a point in the development of human being, the hindrances to people's self-preservation in the state of nature are much great to be conquered by an individual's power in order to maintain himself in this state. Although human had in the past been free and independent, you can find him subject by virtue of a handful of fresh needs to all of nature and particularly to his fellow human being; poor, he needs peoples help; and owing to the fact that he is in between wealth and poverty does not put the man in a position to do without them. As a result of this, the original state can no longer hold and if human does not change its mode of existence, the human race will all perish since men cannot produce new strength, but only make do with the already existing forces. This is done to control their operation by a single means, and make them function together for their own preservation sake (Nwabueze, 2018).

According to Rousseau, the all of forces can be formed only by the collaboration of a number of people. Due to the above proposition, the question is; how is it possible for man to commit his strength and freedom to others without getting himself harmed and at the same time neglecting the act of care to himself since there are the main preservation instruments of himself? What is the relevance of the social contract since human must freely look for his self-preservation? Due to the above assertion, Jean Jack Rousseau maintained that "since man must put in order the necessary forces at his disposal for his survival through forming a group outside of which, it would be difficult for him to preserve himself" to this end, there is need to establish an association (Ogbuju & Eneh, 2014).

Looking at the solution to these problems as mentioned above, Rousseau discovered that it is the entire alienation of each member together with all his civil rights to all the community. Though this recommendation appears to be a remedy for despotism, he is convinced that it is the way towards obtaining total freedom. Living contract is the basic law underlying a political group. This principle helps to overcome the lawlessness of total license and assures freedom, since people on their free mind adjust their conducts to attain the legitimate freedom of others. The only way any one deny himself of his liberty naturally, then puts on the bonds of civil society, is by concurring with other men to unite and join into a society for their comfort, safety, and peaceful living amongst one another in a safe enjoyment of their material resources and a greater security against any one contrary to the assertion (Nweke, 2017).

Rousseau maintained that if people retained some of their rights, there will be no common superior to pass judgment between the public and them, each of them would pass his own judgment on depending on some points, and would soon look for a way to do so on all of them. The nature of things would remain in force and the group would become very necessarily may be tyrannical or lack meaning. As stated above, one loses natural freedom by the social contract and an unending right to everything in the world. What one gains on the other hand is civil freedom and a property right in what one has. These total submissions to all available means eventually don't surrender to anyone and one has the right over all people or things as they have over one. In all, the social contract paves the way to a legalized civil group or association; an artificial component with many members united with collective self, personality, will and life. It is pertinent to note that the public person that is formed in this way by combining all the other things is known as the city and now has the name republic or body politics (Philip, 2016).

3. Rousseau's View on Civil State

The contribution experience of Rousseau's social pact introduces the establishment of civil state; which migrates to the creation of the sovereign state. In accordance to Rousseau's facts, the trend or shift from the state of nature (origin of state) to the civil society establishes a very astonishing change in man. This takes over justice for intuition in his conduct, and as such, inculcates on his actions (performance) the ethics that eluded them in the past (Frank, 2010). Hence, it can be argued that man's action replaces physical rash and his physical desire, but man, who peradventure has noted himself a lonely one, discovers that he is persuaded to act on several principles and as such to reason deeply before achieving to his thought/feelings.

Civil state is the organization of different homo-sapiens in civil society which are being governed under laws and magistracy or magistracies, is disciplined with the administration of the law. The citizens are being controlled by the knowledge of the law. It is basically, law of the civil state, that no one takes law into his hands when his rights are being infringed on, by another but beseech the constituted authorities to address his case. Rousseau noticed that in the civil state, one at poor oneself of a numerous merit which is naturally his, the achievement one makes is so great (Philip, 2014). His physical or mental abilities are improved, his ideologies amplified and his thoughts given a better character and his soul nurtured so much higher, this can only happen if the infringement that occur in his new state did not consistently deduce him to a lower condition than the happy moment (period) when it eludes him forever, and which made him not a limited and a foolish animal but a brilliant creature and a man.

The creation of the civil state is made possible, this was with the help of the social contract in his natural freedom and an inexhaustible right to anything by which he is tempted and he can obtain. What he achieves is civil freedom and property right over everyman gains a quality type of freedom although restricted by the general law than that which he obtains naturally which is limited or stopped or affected only by his individual strength (Brooke, 2002). No doubt, it was granted that, the general politics which constitutes it has total power over its members, as humans, the members have their natural rights.

4. Rousseau's View on the General Will

Hobbes established his unitary sovereign via the mechanism of individual and unilateral promises which Locke criticized as the excessive concentration of power which entails the collaboration of different organs of government for the achievement of different objectives or aims. Rousseau combined all individual citizens into an all-powerful sovereign whose major aim was the expression of the general will. By explanation, the general will is not just a mere will of all and cannot be figured out from the sovereign. With the view to ensure the legitimacy of government and laws, Rousseau would have enacted universal (general) participation with the aim to force men to be free or give freedom to man, as he ironically phrased it (Onodugo, & Amujiri, 2015). The similarity between Hobbes and Locke's view, Rousseau needed the consent of all to the original social contract. He required little population for the enforcement of laws of lesser importance than the constitution itself. His major contribution was to provide for legitimacy through general involvement in legislation, that is in contrast to Locke and Hobbes who were more concerned to ensure constitutional stability through agreement (Rousseau.1762.).

As a matter of fact, Rousseau's contribution appears to be more democratic than that of his forerunners. He has been accused of starting the philosophical foundations of totalitarian democracy, for the states he refers in *The Social Contract* would be subject, at the contrast of its universal and unanimous sovereign, to unplanned changes, or reformation of its constitution.

5. Implications of Rousseau's Idea of Consent in Nigeria

In order to justify a contract, it must satisfy the required publicity condition, which entails that its complete justification is acceptable to the entire members of an ordered state or society. In Samuel Freeman's analysis of Rawls, these laws become wholly justified when the main people endorse the reasons implicit in the reasonable comprehensive rules they hold.

There are two significant consequences publicity has to satisfy through moral conception. Firstly, moral agents can know the real implications for moral hindrances and anticipations and can make use of these reasons to prepare for their actions and pursuits. Moral grounds for action need to be concluded in individual agitations. This is necessary to a person being a wholly involved in moral agent. It is necessary to personal knowledge understanding the importance of social influences on the kind of person the person is.

According to Marxian, publicity is a condition of moral and rational autonomy. Publicity gives moral guides to social function; a society of agents can depend on moral principles as a gain basis for discussion and agreement. They can then check and criticize the acts and institutions using shared characteristics, and proved them to one another when they are very justifiable on the basis of reasons. This links the idea of mutual respect in relation of fully responsible agents. As shown above, publicity of main principles is very important. Without publicity of its moral principles, the intuitive attractiveness of the "contractarian" ideal looks diminished which implies that moral principles do not serve as laws of practical reasoning and justification among equal and free individuals. On the other hand, public issues will be subject to manipulation by emotionally persuasive rhetoric and appeals to biases and interests. More tragic, agents may be prone to general understanding about their civil or social life when non has what it takes to state why moral relations appear as they are.

Being a theory that has to do with the origin of the state, social contract theory is defective. Not minding its short comings in that regard, the theory has a strong appeal as an alternative to the divine right theory, force theory, matriarchal and patriarchal theories of the origin of the state. On the other hand, the Social Contract Theory centers, on the idea of the pursuit and realization of the mutual good as a basic aim or goal of the country, state or society. This idea is in line with that of consent and agreement as the basis of political duties, thus providing philosophical views for evaluating political behaviors and decisions. Through this way, the theory offers better space for the advancement of democratic values and gives way for adaptation on the basis of changing social truths. Interestingly, this process of adaptation is regarded as a matter for agitation other than being enshrined to the arbitrariness of the leaders.

It has become obvious that in regarding the state as the outcome of an agreement, certain fundamental issues touching on the existence of Nigeria and her nationhood need to be seriously addressed. The salient issues of convening the

sovereignty national conference which has been widely canvassed. On the other hand, it is necessary to mention some of its important implications and attendant challenges (Frederick, 2012).

As a sovereign national conference would logically require that the various nationalities that made up the country to be recognized as sovereign and autonomous entity. This would deny the Nigerian state of her sovereignty, since sovereignty is comprehensive and not divisible. The sectors would have the right to make choice regarding their representatives at various conferences (Brooke, 2002).

More so, it would involve suspension of the set-up rules or constitutions, in a moment when the sectors assert their sovereignty and would resolve whether to adopt the constitution, amend or replace it totally. Such a situation can breed anarchy and lure the state to plunge into a nihilistic backlash detrimental to situations in the state of nature. However, the ultimate objectives as regards convening of a sovereign national conference can be achieved with less risk by using the alternative of a framework that recognizes the sectors as a partially autonomous entity within a country, state or a federal republic.

Such an arrangement should be centered on the notion of the sectors as parties to a covenant, and of all citizens as a stakeholder in the commonwealth. It is in the context of this argument that the real fiscal federalism stands exceptional as a lucrative governmental structure. These and more are achievable through a well-coordinated program of constitutional amendment and political restructuring which has been the main cause of agitation in the country for years now. Federalism has to do with decentralization of power and authority. It is imperative in multi ethnic state like Nigeria. In Nigeria, the idea of "state as outcome of a social contract", when it is joined with federalism as a system of government, would also offer benefit of ending the locus of power, promote democracy, and smoothen the means of political bargaining. Meetings of federal level or National conferences could be held to discuss issues of national importance. Such conferences become increasingly less important or necessary if the citizens are allowed to freely choose their leaders or representatives, and those representatives in turn truly represent their constituencies properly and competently. From the above assertion, one can outrightly conclude that there is need for involvements and high sense of obligations among the ruled i.e. the citizens. By behaving as parties to a contract, citizens need to improve in their commitment to the promotion of the goals and purposes of the country. They should also feel the impact of the obligation to protect and obey the laws of the land as the constitution stipulated which are the basic rules and regulations guiding human conduct and social dealings among individuals.

In the final analysis, the idea of consent as contained in the social contract theory stipulates that, the state should not be regarded merely as a community but, more than any other thing else as an association. Raphael wholly explained this distinction as the earlier form of a social group. It has to do with a behavior that is of natural friendship and is not deliberately organized. It is based on 'natural will'. It involves a behavior of deliberate planning or calculation, it is as a result of rational will (Samuel, 1989).

Ideally, the entire state is both a community and an association. This implies that the existence of the state is rooted in and justified by its aims, or a rational will to promote the general well-being of all her citizenry (Samuel, 1989). This will just like Rousseau's general will, should not to be arbitrarily determined. On a safer side, it should be the crystallization of the rational calculations and will of a society which her members are united by a good sense of purpose. This rational or the general will as the case may be constituted a very important psychological recipe for the adjusting the national consciousness and building of a real or truly united nation or state based on established ideologies. A usually asked question which posed a threat to the real application of the ideas of consent, deliberation, and or agreement as contained in the social contract theory proposed by Rousseau, has been whether it is obtainable in practice to have the consent and deliberative participation of all the grown or adult citizens at every point in time in order to justify the dealings of governmental authority over them. The fundamental problems that can be linked to these tasking questions can be resolved in two main varied ways.

Firstly, the basic fundamental rights and freedom of citizens which are ensured or guaranteed in any modern form of a good constitution offer them level play ground to express their opinions regarding the principles of justice and governance. The second part has to do with the application of the hypothetical agreement as postulated in Rawls' view of the social contract theory would ensure that laws and public policies are made on the basis of the crucial "hypotheses" entailing that the citizens are parties to the contract meaning that they are rational and they are members of a well-ordered society, among many others.

6. Conclusion

From the review made above, idea of consent as propounded by Jean Jack Rousseau and other philosophers has to do with the "Social Contract Theory of the state" not minding the numerous criticisms against it, it serves as the best framework for balancing the authority of the government and the duties of the citizens in line with the supposition that they are "parties to a pact". This study goes further to show that the unity and consistency of the Nigerian state hang in the balance. This is as a result of the weak foundation on which the country or nation thrives, the erroneous assumptions upon which she is governed, and the weak structure upon which the various groups that form the country have been forcibly herded. The issues of the state are found in these anomalies. Nigerian as a state lacks a general will which is the major problem faced by the country; it does not fully exhibit the element of *Gesellschaft* which is essential for the proper shaping of the basic aims, objectives and principles of state and the emergence of a state in the ideal sense of the word. The social contract theory of the nation provides a useful way of uniting the state aimed at articulating, harmonizing and aggregating the interests of the masses into both rational and general will. The position of this paper is that no single version of the social contract theory, Rousseau's view inclusive, is adequate as a model for the reconstruction of the Nigerian nation. It rather opined that, due to the changing nature of social happenings and human will or interest, different societies at

different periods of time could adapt the basic assumptions of the Social Contract Theory in putting the state aimed at fulfilling its ultimate goals.

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