

Power Sector Reform in Nigeria: Plans, Progress and Challenges.

A paper presented by Jim I Akhere
at the 9th annual State of the Nigerian Nation Symposium
co-hosted on Friday the 10th of October 2008 by
the African Section of the Library of Congress and the Nigerian Peoples Forum at the
Library of Congress, 101 Independence Avenue SE, Washington DC 20540.*

All protocol observed.

As it will be completely otiose at this stage, after listening to renowned experts in this field to attempt a discourse of the technicalities of power supply in Nigeria, I intend as a lawyer to look at the topic through legal lenses in the main. It a truism that the purpose of government is two-fold: provision of security to the citizenry and the provision of enabling atmosphere for the citizens' welfare and meaningful living. To the question "Is life worth living?", the logical answer is "It depends on the liver" In this paper this writer has in mind that living which depends not on the liver, that part of the human body which produces the necessary substances for sustenance of life but reference here is being made to that form of living which depends on conducive and propitious circumstances which government is enjoined to provide its citizens. Generally governments have historic warrants to carry out the aforementioned duties. In Nigeria in addition to the historic warrant of government to carry out these duties, the 1999 Republican Constitution actually spells it out specifically in Chapter 2 thereof under the Fundamental Objectives and Directive Principles of State Policy.

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In Section 13 of Chapter 2 of the 1999 Nigerian Constitution, it is clearly stated that it is mandatory on the three arms of government to observe and apply the objectives and principles enunciated therein. Age long principles of democratic governance, of sovereignty belonging to the people, the people's entitlement to participate in their governance and most importantly from the point of view of the topic of this paper, that security and the welfare of the people are the principal aim of government, form the theme of the provisions of Section 13 of the 1999 Constitution. To underscore the importance of probity, responsibility and accountability in government, Section 15 of the Constitution provides that the state shall abolish all corrupt practices and abuse of power in its operation. In Section 16 of the same Constitution, the second aim of government of ensuring the welfare of the citizens seems to be pointedly enjoined as the state is mandated therein to harness national resources and promote national prosperity and an efficient, dynamic and self reliant economy which it shall control to secure maximum welfare, freedom and happiness of the citizens. The same section also enjoins the state to manage and operate the major sectors of the economy without truncating the rights of individuals to participate in the major economic areas.

The rationale, basis and authority of the Nigerian government's involvement in the area of power generation and distribution, obviously a major economic sector is beyond question. For many years the National Electric Power Authority (NEPA) has enjoyed unbridled monopoly in power generation and distribution in Nigeria. It goes without saying that power supply in Nigeria which began in Ijora in 1896 before the 1914 amalgamation, through the emergence of the Electricity Company of Nigeria in 1972 a one hundred per cent fully owned government company which later metamorphosed into

NEPA, has been anything but satisfactory. With the nearly one hundred and forty million Nigerians in need of constant supply of electricity today, coupled with an unprecedented surge in industrial activities, the need for efficient and steady power supply in Nigeria is top priority. Various past administrations since independence have failed and woefully so, to address this grave need. It is common knowledge that power is a sine qua non in the manufacturing industry. The health of a nation's Gross Domestic Product is inversely proportional to the manufacturing activities the nation is engaged in. Manufacturing as we know is in effect the transfer of raw materials into finished goods. There is not a dearth of raw materials in Nigeria, thanks to the bounties of Mother Nature. Epileptic power supply, which has been the bane of our country, cannot help and has actually hampered manufacturing activities in Nigeria. Lack of constant supply of electricity is not only a drag on manufacturing but also bound to affect productivity in the rendering of services by three of the four economic decision makers in the market place-the households, the firms and the government. The above deleterious effects of deficiency in power generation and distribution must have informed various efforts by various governments at Power Sector Reforms in Nigeria. The Obasanjo administration's attempt at reforming the power sector on assuming office in 1999 started with the appointment of Chief Bola Ige as the minister in charge of this important sector. Chief Bola Ige of blessed memory, on assumption of office promised to make epileptic power supply in Nigeria a thing of the past. This was not to be as the problems with this sector were endemic and more profound and monumental than the honourable minister thought. One seemingly intractable problem in this sector was the monopoly of that inefficient and corrupt entity NEPA. Realizing this, government had earlier passed an Act in 1998

setting up the Power Holding Company of Nigeria Plc, to in effect end NEPA's monopoly and encourage private participation in the power sector of our economy. The participation of only a few private companies in this sector did not, as envisaged help matters largely because the laws governing the operations of private companies in power generation and distribution Nigeria did not provide enough incentives to private companies. Today, NEPA has been broken up into six transmission companies and eleven distribution companies all under the control of the Nigeria Electricity Regulation Commission NERC, set up in 2005 to make private sector participation in this all important sector of our economy attractive and productive .The Electricity Power Sector Reform Act 2005, was passed setting up the Commission with responsibilities to license companies to generate, transmit and distribute electricity in Nigeria. In addition government has taken steps to expand the existing generation capacities by the Ogun state, Abia state, Ondo state stations as well as encouraging independent power producers to buy into Kwale, Abuja Obajana and Enugu plants. These well intentioned lofty plans are all well and good, provided that those people implementing them operate with the general good in mind. Only recently, the Federal government furnished the power sector with about one hundred billion naira to cushion the impact of the rate shock arising from the correct pricing of electricity in Multi Year Tariff which came into effect on the 1st of July, 2008. Very important but often ignored segments in power supply in Nigeria are rural electrification and renewable energy. The 2006 Renewable Energy master plan forms the working document in this area. However sadly enough, progress on this front has been virtually non existent. I remember vividly that in the Ambrose Alli administration of the defunct Bendel State of Nigeria (1979-1983) in which I was

privileged to serve as Commissioner for Energy and Water Resources, we accomplished a great deal in rural electrification through out the length and breathe of the state. The beauty of rural electrification in our days lay in the cooperation between state and local governments and the federal government in that, while the state and local governments provided the money for the electrification projects, the federal government got involved at the completion of the project at the stage of linkage to the national grid. In some cases rich and philanthropic individuals and corporate bodies were known to have been financially helpful in these projects. It is submitted that rural electrification be reemphasized in this day and age for it shameful that by the end of 2005 there were over 1500 uncompleted rural electrification projects in Nigeria. In another viable alternative source of power generation area, renewable source, very scant attention has been paid to the possibility of power generation from wind and solar sources which we have in abundance in Nigeria. It is hoped however that with the arrival on the scene of the Electricity Regulation Commission fully and adequately funded, the situation in the Nigerian Power sector, where hitherto there has been much motion without movement can now be reversed. This however is not without challenges. A look at the various efforts by various previous administrations will reveal among other seriously impediments one factor which I describe as the subtractum of the litany of failures in this as in many other sectors of affairs in Nigeria and that is corruption. Corruption in Nigeria is a hydra headed dragon which manifests itself in multifarious ways. Its causes are myriads. They include poverty of mind and materials, greed, graft, deification of wealth for its own sake, unpatriotic motives, selfishness, self centeredness, unfortunate inversion of values and a host of other despicable mundane vices. Corruption is certainly to blame

for the recent unconscionable tampering with of the 16 billion dollars meant to be spent in the energy sector in Nigeria released by the previous administration. This condemnable pilfering of the people's money constitutes a colossal waste of public money, siphoned by those we entrusted the money to, for our common good. Instead of the money going into the power sector, it became booty for the various officers charged with executing the energy project. They were consumed with their selfish interests to the detriment of the interests of generality of the people. These corrupt officers, like many others of their ilk in our body politic are the products of our society, where vices attract adulation and virtues, opprobrium. In a society where wealth is deified whether ill-gotten or earned, where treasury looters are held in high esteem and hailed by the populace as having "made it " and honest retired public servants who have no mansions or stinking wealth to show are referred to as not having "made it", where known criminals are in the kitchen cabinets of our executives at all levels of governments, where corrupt rich people are given front seats in churches and mosques because of their wealth, there is hardly any incentive to be up right or to do the right thing for, evil seems to be rewarded and integrity and probity despised. That is Nigeria for you! A recent remark of the Nigerian Finance minister made on the 11th of June 2008 in which he gave two reasons why many reforms in the power sector have failed in Nigeria is worthy of note here. In the opinion of the honourable minister, the two reasons why reforms in this sector have failed in the past are as follows: lack of planning and lack of comprehensive review. I beg to vehemently disagree with the honourable minister and to strongly submit that one of the reasons, often overlooked why previous reforms have failed, as well as many other government projects in Nigeria and a major reason the present reform efforts may fail is

corruption. To tackle this problem effectively there has to be a complete reorientation of the citizenry. There has to be a complete attitudinal change in Nigeria from selfishness and egocentrism to selflessness and patriotism, from materialism to integrity, probity and dignity. Until those we elect to serve us stop serving themselves to our detriment, until crimes of dishonesty in governance are condignly punished and virtues applauded, until the state takes serious steps towards implementing Section 15(4) of the Nigerian Constitution which provides as follows: ‘The state shall abolish all corrupt practices and abuse of power’, there cannot be any meaningful progress in the power sector in Nigeria nor in any other sector. That there is no perfection in humanity is axiomatic and as certain as that tomorrow is Saturday and that today is Friday. Human weaknesses know no race, no colour nor religion nor custom. We are all witnesses to the goings on in the economy of the greatest democracy in the world, the United States of America. The greed, graft, corruption in corporate America is at the verge of bringing the greatest nation in the world to its knees economically and by necessary implication politically. The capitalist structure is tottering .That shows the potency of vices at destroying even solid structures. We are also witnesses to the fact that America can, as it has done many times in its history rise up as one man and face any problem. The recent passage of the bailout bill by Congress eloquently testifies to America’s ability to emerge from seeming abysses. It is my considered view that basic to the American peoples ability to emerge from the down below is their tenacity to accountability. No one is let off the hook by reason of status or pedigree when laws are flouted. Transparency is generally held in high esteem. I bet you, all those responsible for the present state of affairs in the US will be made to account at the appropriate time. Against this background, the recent statement

credited to the erstwhile president of Nigeria Gen. Olusegun Obasanjo, that the present investigation into the power sector in Nigeria in respect of the alleged loot of 16 billion dollars in the power sector be discontinued because it may scare investors away from Nigeria, can only be logically interpreted as self serving unpatriotic and contrary to Section 15(4) of the Nigerian Constitution; “The state shall abolish all corrupt practices and abuse of power.” This positive and direct injunction is absolutely mandatory on any government in Nigeria worth its salt. A government that does not abide by the injunction is antithetical to the people and it is within the rights of the people to stoutly resist and reject that government as their avowed enemy- a veritable enemy of the people!