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ASSIGNMENT QUESTION

Assignment (10Marks) Constitution is important for the consolidation of democracy. However , the making of Nigeria's constitutions have been under two political dispensations that have anti democracy tendencies, and this has been a great impediment to democratic governance in Nigeria. Examine some of the loopholes in Nigeria's constitution over the years that have affected democracy in Nigeria.

ANSWER

ABSTRACT:

The new democratic dispensation in Nigeria was launched again in 1999 leading to the emergence of the fourth republic. It would seem that democracy has increased the culture of impunity in some people while political differences are believed to have fueled some of the challenges that have erupted. Democracy was highly embraced by all with expected hope that it will deliver good dividends and socio-economic development. But not far into the fourth republic, the body polity became overheated by lots of challenges namely: election malpractices, military coups, bad governance, majority tyranny over minority rights, political party indiscipline, abuse of power, constitutional breaches etc. These challenges are strongly affecting democratic stability and consolidation. Adaptation of the liberal democratic system to suit the country's cultural values and peculiarities should lay the basis for people centered development strategies that will empower them

to be active participants in policy making and implementation, under a political climate characterized by the rule of law and constitutionalism. Unless these categorical steps are taken, the country may experience another democratic breakdown that will spell doom for the nation-state. The analysis of the above challenges is the mainstream of this paper.

INTRODUCTION:

Democracy has been described as the government of the people in which laws supreme, rulers and subjects' alike being subject to it. Democracy, adequately understood, is a theory that sets some basic principles according to which a good government, whatever its form, must be run. Such principles include those of justice, equity, freedom, liberty, accountability, openness and transparency in government. Indeed, effect democratic forms of governance rely on public participation, accountability and transparency. In this regard, democracy not only prescribes how political power should be acquired but also what to do with it or how it should be exercised. Therefore, democracy specifies who constitutes the legitimate government and wields the authority inherent in the state (the elected representatives), how they acquire authority (free and fair elections ,choice between parties) and how they are to exercise it (in broad harmony with public good) .This makes democracy amenable to moral and ethical justifications or judgements. Hence, good governance forms the philosophical foundation upon which democracy and democratic theories are built .Democracy has thus been recognized as the only moral and legitimate way through which a society can be administered.

However, the main attributes of democracy is that, those holding political office do not have automatic security of tenure but can be challenged and even displaced in accordance with the will of the people through a wide range of institutional mechanism. Thus, the core ideas and ingredients defining democracy are participation, accountability and transparency; that the people determine who govern them, and that those who govern give account of their stewardship through periodic election is one of the most important mechanisms for the realization of the objectives of democratization. It is also important to note that, elections are not only meant to ensure, confirm or re-affirm the legitimacy of the governors through a regular consent, but also to provide a fertile ground for democracy to thrive. This paper will therefore address the challenges of democracy in Nigeria with key emphases in the ongoing democratic republic conceptual clarification.

Brife explanation on the keywords in this chapter, Democracy, liberal democracy, democratic consolidation, Good governance, Fourth republic

1 Democracy

Apart from being a subject of global concern, the concept democracy in its modern understanding, is the government of the people by the people and for the people. It is particularly sensitive to the current socioeconomic and political circumstances of nations striving for international identity and development posture as well as liberality and good governance (. As an over-flogged concept, the idea as enunciated by the ancient Greeks means “demos Cratos” which is literally translates into “people’s power or rule”. That goes to show that democracy has its root in Greek where individuals in a polls have an opportunity of taken part in decision-making. This position explains democracy as a universal principle of governance that upholds high moral imperatives, accord the citizenry the right to participate in decision-making that adheres to their collective will and interest .The concept can therefore be regarded as a governmental system that involves the widest spectrum participation, either through elections or through the administration of the accepted policies. It is a government founded on the principle of rule of law which is against arbitrariness, highhandedness, dictatorship and also antithesis to military regime . Moreover, if we go by St. Augustine’s definition – government that Nigeria ever had could qualify as “Mafua Government”. The word “Mafua” within the paper’s context means government infested with power drunken, self seeking, ideology-barren, orientation less operatives; usually selected by their kind and of course scarcely ever elected by the people. Even in the guise of multi-party election, those to rule are clearly predetermined and chosen even before elections takes place. Democracy in Nigeria islamed and in terms of its conceptual outcome has failed to meet the expectations of the people. Furthermore, Nigeria’s democracy (if it could be so described) has tended to promote inequality rather than equity. Arguably once Nigeria’s most serene city, Yobe State now synonymous with senseless violence, largely occasioned by misgivings and primordial sentiments and prejudices among inhabitants. Predictably, the mixtures of ethnicity and faith have taken the strife to unimaginable, deadly heights. Neighbours who had lived in harmony for decades have turned on one another with murderous fervor. That has led to the loss of thousands of lives.Numerous buildings and other valuables have been razed. Law enforcement agents now comb worship

centres in Yobe State on Fridays and Sundays to safeguard them. For a nation whose citizens boast of belonging to either Christianity or Islam, two of the world's greatest faiths, that indeed is a sad commentary.

2. Theoretical Framework

This paper adopts "Liberal theory of democracy" in examining the challenges of democracy in Nigeria's Fourth Republic. The liberal theory of democracy said to be common among capitalist and peripheral capitalist nations. This notion of democracy emerged when capitalism became the dominant mode of production in Europe and North America supported philosophical writing of John Locke, Rousseau, John Stuart, Montesquieu, Euripides, and other Liberal writers whose theories advocate private liberty, social justice, natural rights, majority rule and private property. Based on this premise, the central idea of the liberal bourgeois theory of democracy is how to design a political system which encourages individual participation and enhances moral development of citizens. Liberal democracies usually have universal suffrage, granting all adult citizens the right to vote regardless of race, gender or property ownership. Liberal democracy may take various constitutional forms: it may be a federal republic, as the United States, Brazil, India and Germany, or a constitutional monarchy such as the United Kingdom, Japan and Spain. It may also be a presidential or a parliamentary system. This theory is justified due to the fact that, it can help examine analytically the challenges of democracy in Nigeria's Fourth Republic as it designs the systematic structure through which a democratic political system can effectively function. Liberal theory of democracy is an interesting theory in this work. Its values lies in the fact that it exposes and explain the expectation of any political system, especially as it emphasizes the conduct of credible elections which is one of the factors responsible for consolidating democracy.

3. Critique

"Liberal Democracy" does not respect the absolute majority rule (except when electing representatives). The liberty of majority rule is restricted by the constitution or precedent decided by previous generations. Also, the real power is actually held by a relatively small representative. The argument goes thus, "Liberal Democracy" is merely a decoration over an oligarchy. Some marxists socialists and Left-Wing Anarchists, argued that, liberal democracy is an integral part of the capitalist system. Therefore, it is a class-based and not democratic or participatory. The cost of political campaigning in representatives democracies favours the rich (Morton,

2004). Modern Democracy has also been criticized by non-democratic socialists as an honest force used to keep the masses from realizing that there will be irrelevant in the political process. Liberal Democracy notwithstanding the criticisms averred by critique is by and large significant this work. Although other theories such as liberal Marxists theory, classical theory of democracy, and political economic theory respectively, have been used to analyze democracy, none is sufficient to examine democratic consolidation better than the liberal theory in this study.

4. Democratic Consolidation

Diamond (1999) sees democratic consolidation as the process of achieving broad and deep legitimation such that all significant political actors believe that popular rule is better for their society than any other realistic alternative they can imagine. It also means that act of reducing the probability of the breakdown of the system to the point where democracy can be said that it will persist. Some scholars view it as regime maintenance and about regarding the key political institutions as the only legitimate framework for political contestation and adherence to the democratic rules of the game. Democratic consolidation manifest under enhance economic development, developed democratic culture, stable party system, suffice to assert that this cannot be attained in Nigeria until stability is attained. This therefore shows that though under democratic regime, Nigeria is striving for consolidation. The problem here is that liberal democracy does not evolve, as it was in the west, with the African societies. The argument here is that there is a serious need to “domesticate” Western liberal democracies in order to enhance its benefits in Africa. Therefore, Nigeria and the rest of Africa should, like has argued, “find indigenous ways and means of hammering the autochthonous democratic element as well as elements inherited from alien sources into an acceptable and viable democratic form in the setting of the modern world.

5. Good Governance

Odock (2006:3 – 5) sees good governance as “a system of government based on good leadership, respect for the rule of law and due process, the accountability of the political leadership to the electorate as well as transparency in the operations of government”. Transparency, Odock opined that it has to do with the leadership carrying out government business in an open, easy to understand and explicit manner, such that the rules made by government, the policies implemented by the government and the results of government activities are easy to verify by the ordinary

citizens. Accountability as a component of good governance refers to the fact that those who occupy positions of leadership in the government must give account or subject themselves to the will and desire of the society and people they lead. Unfortunately, this is lacking in the public domain in Nigeria. Political leadership has been one of the main challenges or obstacles to democracy and development in Africa. Post independence political leadership has been everything but productive. They have been distributive rather than productive in orientation, wasteful and corrupt in political and economic management. The problem with Nigeria has been described simply as that of leadership (Achebe, 1984). Corruption is a pernicious phenomenon that plagues all sectors of public and private life in Africa. Under the Fourth Republic in Nigeria, it has continued unabated. Governance typically emphasizes leadership which suggests the way political leaders meaning the apparatus of the state, use or misuse power, to promote social and economic development or to engage in those agendas that largely undermine the realization of the good things of life for the people. Good governance is in tandem with democratic governance which is largely characterized by high valued principles such as rule of law, accountability, participation, transparency, human and civil rights. These governance qualities have the capacity to provide the development process of a country. In the Nigerian context, good governance calls for constitutional rule and a true federal system. These are the basic pedestals on which any vision of development rests on. Therefore, resources of the state must be managed in such a manner as to achieve the desired level of socio-economic progress for all members of the political community.

Challenges of Democracy in Nigeria's Fourth Republic

Nigeria's democracy landed on a good platform with the existence of democratic institutions, plural society, vibrant civil society organizations and critical mass media among others. These ingredients have the structure and capacity to make democracy thrive in Nigeria. But it is germane to note that, Nigeria's democracy has remained grossly unstable since the return to this popular form of governance in 1999. The political terrain has been home with lots of challenges precipitating against the genuine realization of the system. In fact the impediments to the nation's unending desire for a true democracy seem to assume a more perilous proportion by the day. These challenges are:

1 Military Coups

The first major challenge to the survival of democracy in Nigeria has been and remains military coups, as they always prevented democracy from rising above the level of a toddler since 1966. Democracy needs to be nurtured by oiling democratic institutions not by truncating them through coups and counter coups. Where there are mistakes as there often are, Nigeria will do better to use all constitutional means to combat gross abuse of democratic processes, procedures and institutions than allow coups as the necessary messianic option.

2 Election Malpractices

The next major challenge is the inability to conduct free and fair elections. Nigeria in 2007 general elections, witnessed a lot of irregularities and malpractices. The final report of the European Union Election Observer Mission (EU EOM) led by Mr. Max Van den Berg (Netherlands). Member of the European Parliament, on Nigeria's 2007 elections, reveals the extent of this major challenge when it says: *The team under took observation of 33 of the 36 states plus the Federal Capital Territory (FCT)..... The 2007 states and federal elections fell far short of basic international and regional standards for democratic elections. They were marred by poor organization, lack of essential transparency, widespread procedural irregularities, substantial evidence of fraud, widespread voter disenfranchisement at all different stages of the process, lack of equal malaise once and for all.*

3 Bad Governance

Bad Governance is a major challenge to the survival of democracy. The widespread back of basic infrastructure and pervasive corruption in the Nigerian polity pose a serious threat and challenge to democracy. When citizens feel that appropriated funds are not well managed in the common interest, it discourages loyalty to the nation and kills the spirit of patriotism.

4 Majoritarian Tyranny over Minority Rights

The issue of majority rule and minority rights is still a challenge as the ethnic minorities in the oil producing areas of the south-south geopolitical foreign exchange earnings has consistently cried out against overt and prolonged neglect of their region by the majority ruling the country over the years. Some disgruntled elements have even resorted to militancy as a way to ventilate their grievances thereby threatening the survival of democracy in Nigeria. Democracy requires a stable political and economic environment to thrive.

5 Political Party Indiscipline

The activities of political parties are a far cry from the prescriptions of the constitution and pose a major challenge. Political parties and their members still breach with impunity the constitutional provisions that no association should retain, organize, train or equip any person or group of persons to be employed for the use or display of physical force or coercion in promoting any political objective in a manner to arouse apprehension. Political thuggery and even political assassination are still a prominent feature bedeviling Nigerian politics. For example, the EU EOM notes thus “violence was a major issue of concern and incidents increased as the election drew nearer. Credible reports indicated that at least 200 people including candidates and policemen were killed in election related incidents. This is unacceptable not only with respect to the right to life, but also to the democratic process”

6 Abuse of Power

The unrestrained use of power by government against citizens still poses a challenge. The invasions of Odi and Zaki Biam by the Government forces which involved serious loss of lives detract from the concept of democracy. The forceful demolition of houses in the federal capital, Abuja and the consequential homelessness without compensation or alternative accommodation in many cases could be seen as extravagant use of power which reinforces undemocratic norms.

7 Constitutional Breaches

The threat to the fundamental rights of citizens during political campaigns and after elections is a monumental challenge. The right to life of many political opponents has been truncated for political reasons. The country is replete with stories of political assassination that thwart full expression of people’s democratic will. Any situation that detracts from the fundamental rights of speech, movement, assembly, life, dignity of the human person and fair hearing as usually and after elections remain a veritable threat to democracy.

Prospects

The future of democracy in Nigeria remains bright. Nigerians are beginning to see the difference between a military regime (no matter how benevolent) and a democracy. Under the military, the legislative arm does not exist but

they are the true representatives of the people who should act according to the dictates of their constituents as espoused in radical democratic theory. If they do not do so at the moment, it should be regarded as a passing phase from which they will graduate as the dictatorial lessons from the military will take some time to erode Liberal democracy, qua liberal democracy, remains the best option for Nigeria and the lessons are fast being appreciated.

For example, a number of elected persons who purportedly won elections have been disqualified by the election tribunals. These are lessons from democracy. Constituents are able to reach their grievances. This was not possible under the military. The judiciary has been overturning some major Government decisions, actions and even legislations by their landmark decisions to accord with the constitution. This is constitutional government which is a basic ethos of democracy. The checks and balances and separation of powers that characterize democracy are becoming evident in the land. Citizens are able to exercise their freedoms of speech, movement, assembly, and their rights to fair hearing, personal liberty, etc, unlike what happened under military regimes. All these are pointers to the fact that democracy has very bright prospects in Nigeria. The anticorruption war which could not be fought under the military is ongoing. The articulation of grievances through the Houses of Assembly and the National Assembly give room for robust debates before laws are made. No decrees are issued out without debates as in the military. It can safely therefore be concluded that Nigeria is on the true path to democracy, the challenges notwithstanding. Like a toddler, Nigeria will outgrow the infancy period and its democracy will take root and mature to an advanced stage. This will come sooner than later as the present administration has fully embraced the rule of law and constitutionalism.

References

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