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The Loopholes in Nigeria’s constitutions over the years that have affected democracy in Nigeria.

***INTRODUCTION***

Firstly I would start with defining the key words with are loopholes, constitution, and democracy. A loophole is an ambiguity or inadequacy in a system, such as a law or security, which can be used to circumvent or otherwise avoid the purpose, implied or explicitly stated, of the system. A constitution is a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed simply said constitution is the fundamental laws of the land. Democracy is a system of government by the whole population or all the eligible members of a state, typically through elected representatives.

 Nigeria, which prides itself as Africa’s giant, is faced with myriads of challenges. These numerous challenges sometimes arise as a result of many loopholes in the constitution hence affecting democracy in Nigeria; these challenges also raise doubts about this unproven appellation. Our politics has become a platform for impunity, graft and fragrant disobedience to the constitution. These factors have ultimately reduced our respect among the comity of nations.

 Constitutionally, Nigeria is presently governed by the 1999 Constitution but recent political happenings in the country show we are not governed by any laws. It is clear that the role of the constitution in governance and democracy cannot be overemphasized that is why there is need study and correct the current happening in our country Nigeria.

 ***THE NIGERIAN CONSTITUTION AND ITS IMPOTANCE TO DEMOCRACY.***

The Constitution of Nigeria is the supreme law of the Federal Republic of Nigeria. Nigeria has had a series of constitutions. The current constitution was enacted on 29 May 1999, inaugurating the Nigerian Fourth Republic. The constitution was made for all to obey as the supremacy of the constitution states that no one is above the constitution.

 The Constitution is important because it protects individual freedom, and its fundamental principles govern the Nigerian state. The Constitution places the government's power in the hands of the citizens. It limits the power of the government and establishes a system of checks and balances. The primary function of a constitution is to lay out the basic structure of the government according to which the people are to be governed. It is the constitution of a country, which establishes the three main organs of the government, namely, the legislature, executive and judiciary.

The constitution of a country not only defines the powers allotted to each of the three main organs, but it also significantly makes a clear demarcation of the responsibilities assigned to each of them. It effectively regulates the relationship between these organs as well as the relationship between the government and its people. Since the country’s constitution stands superior to all the laws framed within the territorial precincts of the country, any law enacted by the ruling government has to be in conformity with the concerned constitution. As such, the citizens would, in turn, be abiding by not just the law, but also working in sync with the demarcations of the constitution laid by the country. The constitution does not simply provide a recipe for an efficient government, but also deals with limitations on power. Since power corrupts and absolute power corrupts absolutely, a constitution is established to restrict the abuse of power by those who conduct governmental functions.

 The constitution of a particular country lays down the national goals which form the basic edifice on which the nation rests upon. For instance, the constitution of India has inscribed in it the primary facets of the nation which are democracy, socialism, secularism and national integration. A constitution, besides thrusting on the rights of the citizens of the concerned nation, also has embedded in it the duties that the citizens require to adhere to as well.

***THE LOOPHOLES IN THE PREAMBLE AND THE SECTIONS OF OUR 1999 CONSTITUTION.***

With the definition of loopholes I will be looking at the various loopholes in the preamble and the different sections of the constitutions. A preamble is an introduction or a preparatory statement that captures or gives you an insight of what is obtainable in the main constitution.

The preamble is;

 **“we the people of the Federal Republic of Nigeria, having firmly and solemnly resolved to live in unity and harmony as one indivisible and indissoluble sovereign nation, under God, dedicated to the promotion of inter-African  unity, world peace , international cooperation and understanding and to provide for ourselves a constitution for the promotion of good government, and welfare of all persons in our country, on the principles of freedom, equality and justice, and for  consolidating the unity of our people Do hereby make, Enact and give to ourselves the following constitution”!**

 What a perfect preamble to a constitution you may say to yourself, but as a nation it has only left so many questions unanswered. After going through the preamble and analyzing each of the sentences, we should be able to say that the wordings must have been dictated to whoever it is that was responsible for its compilation. “We the people of Nigeria having firmly and solemnly agreed to live in unity and harmony, as one indivisible and indissoluble sovereign nation” indeed! When was this agreement made if at all, it was ever made? The Nigeria we see today, has never exhibited a single characteristics of any hitherto agreement to live together. According to the words of the first civilian president, in the person of Alhaji Shehu Shagari, the elder statesman, once said “I do not see Nigeria as a nation, for me it is an appellation of a congregation of people, living within that vast geographical terrain called Nigeria”. To some extent this can be said to be true because unfortunately the sense of unity is not seen in our country today due to ethnic diversity seen as favoritism is the order of the day in our country Nigeria today, as every man is trying to favor someone from his or her tribe.  Personally think the amalgamation of the northern and southern protectorates by lord Lugard sometime in 1914 was nothing more than a fraud.  A clear look at the history of  our nation, since amalgamation down to independence and even in recent times, is nothing more, but a show of shame, In that, it is characterized with myriads of crises, along ethnic/religious sentiments. A locus classicus of this, is the first military coup of january15th 1966, and the counter coup that followed, six months later. In the former, prominent northern military officers were killed, and in the later, the northern military officers retaliated, so therefore I think it is justified to say the preamble of the 1999 constitution is nothing but a fiasco. Thus, the constitution can’t stand.

A constitution may be examined as to its provisions regarding the rights and obligations of the citizens and the structures, procedures, powers and functions of government in the country. Another angle from which a constitution may be viewed is as to its drafting as a legal document. That the drafting of a constitution is crucial for its successful operation is hardly worth mentioning. The current (1999) Constitution of Nigeria contains many errors in its drafting. .Looking into how the constitution was made we would also discover that the constitution is not a product of any constitutional conference. It was hurriedly prepared by the outgoing military government of General Abdulsalam Abubakar. This would explain why we are discussing loopholes in the first place seeing as the basis on which the constitution was made was a mistake on it own. Thus, many Nigerians continue to criticize it and see it more as a military constitution than the civilian constitution. The contents of the Constitution are the prerogative of the People. They may exercise this prerogative through their representatives sitting in a Constituent Assembly or at a General Constitutional Conference. Regrettably, it is now clear that the present members of the National Assembly are planning to exclude the People from any effective participation in the making of a new constitution or in the amendment of the existing one. Planned consultations at various public gatherings are a sham. Such gatherings will only produce unchallenged views and demands by individuals and groups. They will not engender in depth and well-informed debate.

 Few of the problems optical in the constitution are; ambiguities in the words used and provisions made, inconsistencies in the provisions contained in different parts of the Constitution, inconsistencies in the use of words and expressions in different sections, grammatically wrong or inappropriate use of words such as the use of the word “impeachment” in sections 40 (1) and 191 (1) and (v) such other inadequacies. The constitution fails to define the roles of the traditional rulers in government. The constitution is not clear on the functions and creation of the local governments. This makes local governments to be at the mercy of the other governments. Then, this issue of creation of more local governments has been a major source of conflict between states and federal governments. A classical example was Lagos vs. Federal Government during Obasanjo's administration. The exclusive list is too bogus. It makes the federal government to be too dominant, while the states and local governments become unnecessarily dependent on the centre. Powers of the President are too much. This makes some presidents to abuse the office and disregard the powers of the other organs. The recognition of the Sharia courts contravenes the description of the country as being SECULAR. It's like having two contradictory constitutions. The fact that it was enacted by the military government and not by a democratic one is an issue, as it was created by decrees. There are laws in certain sections of the constitution which are denied by another section in the same constitution. The constitution is filled with laws that contradict other laws in the same constitution. Another fact is that the constitution is rigid and cannot be easily amended.

***THE ROLE NIGERIAN CITIZENS PLAY .***

 Usually we are quick to also forget the roles the Nigerian citizens play in making the loopholes we find in the constitution the government tends to carry all the blame but we forget we forget we also have a part to play. Firstly the fact the we allowed the constitution to be drafted in such a manner is a loophole it would be a mistake to say the document they handed over then was the constitution because according to the definition of the U.S. president Abraham Lincoln (1809-1865) defined democracy as: “Government of the people, by the people, for the people”, and that constitution did not fulfill the obligations of democracy. This is because it has nothing to do with the will of the people of Nigeria. I was done based on the way the military wanted it, it should be seen rather as a guideline.

 Citizens being uninformed and ignorant about politics are also loophole in our constitution. An average Nigerian does not know the day to day activities of his or her country is nothing but a shortcoming of the constitution. As citizens of a country you are meant to know your rights, participate in voting etc but most people do not know that and they practice political aparthy for example Nigerians are clearly being enslaved in their own country, but most of our people do not know ad there are so many questions to ask that we don’t ask such questions are; How much of freedom do you have an access to as a citizen? How much of world-class social amenities do you have an access to as a citizen? Until you travel outside of Nigeria, you would not know that you are not being treated as a human being. But instead of our people to daily ask questions that would move us forward as a people, we are neck-deep in the septic-tank of sycophancy that cannot deliver a great tomorrow.

 ***WHAT IS THE WAY FORWARD?***

 Firstly let's build a harmonious strong union that would be like the United States. We are big. We are the biggest in Africa in population and whatever. Who put oil in Nigeria? It is not Yoruba or Hausa or Igbo. It is God. Nigeria is wasting time beating drums of war. We need a sovereign national conference where we'd speak to one another and come up with a people's constitution.

The Nigerian 1999 constitution has a lot of shortcomings to the best of my knowledge. The lapses only surface when we experience a despicable situation in a sector in which the constitution fails or could not fully address. Hence, you never can tell which faulty part of the constitution will be exposed tomorrow just because the current situation isn't demanding it. Thus, the constitution needs to be fully reviewed and amended to realistically address modern day issues while also putting into consideration predictable future situations.

***CONCLUSION***

It's very important to know that there's no perfect constitution anywhere in the world. Strengths and weaknesses of each constitution largely lie with those that practice it, particularly the decision makers. So each constitution is expected to evolve to meet up with the changing needs of the country.

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