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***QUESTION: Constitution is important for the consolidation of democracy. However, the makings 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 constitutions over the years that have affected democracy in Nigeria.***

*Democracy, either as a concept or a system of rule, has become excessively ambiguous in contemporary political analysis. Indeed, there is probably no concept that has been so subjected to varying definitions, antagonistic interpretations and contradictory practises as the concept of democracy. This is not surprising given the fact that democracy has become more and more widely praised and embraced thereby making it more and more difficult to pin down. Politicians from the extreme left to the extreme right always insist that the form of politics or rule they support is the one that is democratic in character. Even military regimes, which, according to Robert Mundt et. al cannot ‘deliver’ democracy, always invoke the concept of democracy in support of arguments although such invocations are often punctured by ubiquitous violations of the fundamental rights of the people. This is what Peter Ekeh refers to as democratism, which, according to him, refers to the brand of rule that makes use of ‘false principles of the institutions of democracy’ while at the same time creating anti-democratic conditions.*

It is generally accepted that constitutions are foundational pillars for democracy, and that there is no democracy without a constitution to govern the land. And looking at Nigeria through the years, seeing her failed constitutions and government, I think it’s safe to say that she is a failed nation practicing a perverted version of democracy.

Since Nigeria’s first constitution in 1914 till her most recent one enacted in 1999, Nigeria has not had a single constitution that we can proudly hold high and say it is the back bone of democracy. The character and pathologies of the contemporary Nigerian politics takes root from, and has been shaped by colonialism.

Through the colonial era, all five constitutions made were not for the development or support of democracy, but for the selfish interest and agendas of our colonial masters. The kind of politics the colonialists introduced to Africa was quite different from the kind obtained in their home countries. Largely, the type of politics the colonialists practised back home was responsive to the needs of their people and geared towards improving the lot of their citizens. But the type they introduced to Africa was exploitative and directed towards expropriating the human and natural wealth of the African continent. Politics in the colonial era was aimed, strictly, at the maximisation of returns from the colonised states for the advantage of the colonisers.

Constitutions during colonialism, from Lugard to Mcpherson, not once was the Nigerian future considered, this is evident in the change of constitution after every other year, having five different constitutions in 40 years. These had a lot in common, though each was an improvement on the previous. These years, we can say are the first anti-democratic years in the history of the nation “Nigeria”. With every new constitution came a new problem, the masses and educated elites were not satisfied with how they were being governed, they saw the manipulative ways of the foreign invaders and wanted to, even though minor, make a stand for their rights as citizens of the country. The British were setting up councils, rules, laws, putting in place restrictions that were of no way supportive of the Nigerian citizens. The prime motive for the colonization was economic, and in order to realize their economic goals, the colonialists employed means that were immoral in achieving the ends they sought.

Some features of these constitutions are; they were all prepared and promulgated by the white colonial administrators. Only MacPherson and Lyttleton constitutions contained input of the Nigerians. In all, the governors retained the veto powers. The natives were consistently in unofficial capacity in the executive council. All the constitutions were named after the white officials. The first three were named after the sitting governors, only the last, Lyttleton constitution was named after the colonial secretary. Each of them adopted parliamentary system of government and the British monarch as the head. Each constitution gave special recognition to the north, and the region was obviously favoured at the expense of the south. Under Clifford constitution, the north was ruled via proclamation, while the legislative council was created for the south. When regionalism started with the Richard constitution, the north was given bicameralism, while each of the east and west was given unicameralism, and ever since, the north has been given more representative slots than the east and the west. From the inception of Macpherson's constitution, the north had continued to be having more representation than the east and west combined.

So, I think it’s safe to say that the colonial era of this nation did practically nothing to encourage democracy. They were no pacesetters or trailblazers for a successful Nigerian practice of democracy. And it can be said that they left Nigeria unprepared and unfit for self governance.

Nigeria’s taste of democracy was a brief six years after independence, when in 1966, a military coup led by Major Chukwuma Kaduna ushered in over 3 decades of military rule. From 1960 Nigeria has had three constitutions which could not hold sand, even the 1999 constitution is being argued to be an undemocratic constitution in need of a full review or even scrapping.

The problem sustaining the democratic project in Nigeria ceases to be a straightforward task. This is so because democracy as post-military constitutional government has been, since the 1966 coup, a product of military governments.

In a Nigeria, in which the military have played the above roles, democracy cannot be defined as constitutional government, nor can the democratic project be defined as preventing the return of military rule. This conclusion follows from the fact that we are concerned with Nigeria and with the task of sustaining the democratic project in Nigeria. If we cannot define democracy as that which the military government allows, and which the Armed Forces who constitute military government have with impunity overthrown; (1966-1979 and (1983-1999) and if the constitutions and the governmental structures, federal, state and local governments that operate these constitutions have been promulgated by military governments. then indeed, the democratic project in Nigeria must be other than running civilian successor constitutional governments brought into being by military governments, the point is in order for three reasons:

The first military overthrow of constitutional governments which they authored and mid-wifed have been unhindered; the military come and go at their discretion – so it seems to the vast majority of the population. This autonomy of action makes the life-span of constitutions and governments operating those constitutions dependent upon the will of the military;

The second reason is that the capacity and the ability or the military to overthrow the constitution and the governmental system it authorises has not been destroyed. So the “Military-In-Barracks Today Can Become The Military-In-Government Tomorrow”;

The third reason is that the civilian the military overthrow today becomes tomorrow the collaborators of the military both in the political and economic sectors.

For these three reasons the “Civilian-in-the-Private Sector” can be described as the “unofficial opposition” of the Military-in-the Barracks. Coups may therefore be explained as a negotiated transaction of change of governments between factions of the elite. Nigeria can thus be described as an elite – mass political society, where elites are also the rulers. In this construction, the Military has been the dominant faction, and the Civilian, the subordinate faction. This conception of Nigeria suggests itself, because of the three reasons mentioned above.

In Nigeria, constitutional elite government has been described as democracy, where competition for office has been through electoral competition among candidates fielded by state approved parties. And even in this highly restricted definition of democracy, the life span of constitutions and constitutional government has been determined by the military.

In historical terms the enemy of democracy has been defined as the Nigerian Armed forces and it national and international collaborators. And if the enemy of democracy is so defined, it follows that democracy itself is defined in constitutional terms; that is in terms of constitutional government where the Armed Forces are defined as the opponent of democracy. Military government is thus contrasted to constitutional government in this definition.

Democracy and Nigeria are like Siamese twins; though conjoined, they are uncomfortable and under intense pressure that could result in all forms of hurt, even death. Although, democracy may not be strange to an overwhelming percentage of Nigerians; what may be strange to them is the brand of democracy that invests, first and foremost, in human and material resources for the purposes of political stability, economic viability, scientific advancement, technological breakthrough, educational development and life-enhancing social services. Given the general optimism that Nigeria was going to be the bastion of democracy in Africa following her independence from Britain in 1960, one should normally expect that by now democracy should be deeply rooted and institutionalised in the country. Ironically and unfortunately, Nigeria, as far as the practise and delivery of dividends of liberal democracy is concerned, is yet a cripple that can barely stand let alone walk or run.

While it remains true that Nigeria is governed by democratically elected leaders at the federal and state levels, Nigeria is yet to institutionalize democracy after a century of existence as a political entity.

In a newspaper article entitled ‘The Story of Cain, Abel and Nigeria’ Ademola Adelakun captures the practise of Nigerian democracy thus:

*“Today, Nigeria is literally bleeding. There is too much violence. We have bred enough Frankenstein monsters to haunt us. We feed them red meat each time they cry for blood. Those who are not killed by Boko Haram are killed by the Joint Task Force. Those who escape the JTF fall into the hands of mind-bending illiteracy. Those who manage to escape all those are consumed by road accidents. Some die in poorly equipped hospitals. Those lucky to bypass all of the above are either killed by hunger, poverty, or frustration practically turns them to the living dead. It is the curse of Cain. The earth antagonises people who needlessly shed blood. Recently, multiple road accidents claimed almost 100 lives. In a country where life counts, that should have led to a major social change. Sadly, not even a paragraph of official response came from the government, not even the local government chairmen of the areas the accidents happened. Unfortunately, the government aides who explain away these deaths are the same ones who rush to Twitter to console President Barack Obama over the Boston bombing. They are not their own brother’s keepers because their brother’s life is worthless.”*

Although, Nigeria has produced nine written constitutions; it is yet to institutionalise democracy. This is because the problem is neither with the makers nor matters of the constitution; but the men who have the responsibility of operating the constitutions. To institutionalise democracy is to develop and strengthen the legal-rational structures that would invariably strengthen and solidify democracy and the rule of law.

Furthermore, Nigeria 21st century democratic dispensation is expected to promote the common good to the people, which can be accomplished through sustenance of democratic values, such as, fiscal discipline, transparency, leadership accountability, a good conscience, due process, the rule of law, preservation of the constitution among others. However, leaders with credibility have not been found to have the above features accomplished for the common good of the society which is the basis of a democratic dispensation. Therefore, this explains the poor current state of the nation’s democracy.

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