

EVOLUTION OF CONSTITUTIONAL GOVERNMENT IN NIGERIA: ITS IMPLEMENTATION NATIONAL COHESION

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ABSTRACT: *This paper attempts to re-examine the evolution of constitutional governments in Nigeria from 1922 to 1999 and identify their impact on National coherence. It examined the patterns and degree of the people's involvement in these processes of constitution making and development. With emphasis on how coherent these constitutions have unified the country. It adapted the historical and content analysis methods for eliciting and analyzing its data. Three research questions were drawn for the study. Among other things, the paper reveals that although, we must remind ourselves that Nigerian federalism was established to secure the country's unity and progress in the face of strong centrifugal forces. Hence, we can say that the various constitutions have tried to ensure coherence in the country. But most importantly in ensuring sustainable conference, the constitution for the people's republic must entrench liberty and equity of all within a federal democratic structure in which power responsibility and resources are decentralized.*

KEYWORDS: Evolution, Government, Nigeria, National Cohesion, federalism, constitution

INTRODUCTION

Any conscious attempt by practitioners and politicians to achieve the genuine purpose of democracy requires that the government must be a constitutional one. This is why the history of the evolution of constitutional governments in Nigeria deserved to be studied. The history of constitutional development in Nigeria is a chequered one, culminating in a nation-state, where cohesion has almost remain elusive. The elusiveness of cohesion is not because the people are less interested in unity, but the intentions and manner, past leaders, both colonialists and indigenous ones manipulated and produced self working documents that are not people oriented (Oyeleye 2007:22). From 1922 through 1963 when Nigeria became a Republic, the analysis of almost all the constitutions produced to govern the country were either handed down by the government or were forced to accept few nationalist's constitutions. The same phenomenon of non-participation were also rife in the 2nd phase of Nigerian constitutional development that was masterminded by the military from 1966 through 1999 Constitution. Prominent in the Nigeria project is the constant cry by the Nigerian people, especially the minority cry of non-recognition in the scheme of things. The result of non-acceptable constitution is the recurrent upheaval that is heating up the polity that is almost making coherence elude the nation.

Statement of the Problem

Since the colonial rulers forcefully joined the hitherto separate independent nations to form a one indivisible entity and welded it with a federal constitution, Nigerians, although, have

accepted in principle to endure the federal system of government, they have always agitated that a true constitutional government expressing genuine nation building is desired. This philosophy of nation building, must involve the process of welding that diverse social economic and political as well as cultural nation state together to form the aggregate where the citizen have a sense of belonging, fulfillment and patriotism. It is the near absence or threatened coherence as a result of lack of the principles and tenets of nation building in the plethora of constitutional governments that Nigeria had experience that has agitated the minds of scholars. In all the constitutions n Nigeria the issue of unity in diversity has always been stressed. But various nationalities, particularly the minorities have not been adequately consulted to make inputs into the constitutions. It is when they are allowed to involve in the process of making a constitution that will govern them that a progressive level of coherence will be achieved in Nigeria.

Objective of the Study

The broad object of this paper is to re-examined the evolution of constitutional governments in Nigeria and identify its positive and negative impact on national coherence. The specific objectives include;

- i. To examine the potency of the already adopted federal constitution in ensuring sustained coherence in Nigeria
- ii. To examine the degree of involvement of the people in the processes of constitutional development in Nigeria
- iii. To account for the reasons for non-involvement of the people by the elites in the process of constitutional making
- iv. To enable prediction, generalization and possible theorizing about constitution making that will ensure nation building and coherence

Research Questions

- i. Does Nigeria constitutional government adequately guarantee harmonious co-existence among ethnic's nationalities?
- ii. Can constitutional governments ensure and guarantee that level of coherence and progressive development in Nigeria?
- iii. Does Nigeria federal constitution really share powers among the constituent in accordance with the federal principle?

Significance of the Study

This paper will be significant in the following ways

- i. It will help to appreciate the relevance of constitutional government in ensuring sustainable coherence in any country
- ii. It hopes to lead to more understanding of the degree of the people involvement in constitution making in a developing country like Nigeria where nation building required good constitutional government and leadership

- iii. It hopes to contribute to theory formulation that will increase our knowledge about constitutional government and explain the process of making such constitution that will pacify the people and ensure coherence in the polity

Theoretical Framework

The application of a theoretical framework to the analysis of any phenomenon, be it social, political and governmental is very relevant. This is because theoretical framework serves to illuminate and elucidate social phenomena (**Gaubu 2003:216**). It also acts as a compass to researchers in their search for facts and figures; leading them from the known to the unknown. In this paper therefore, the system's theory will be employed in an attempt to explain constitutional development in Nigeria and its implications on national coherence. The system theory according to (**Ikelegbe 2005:33**) is based on the Estonian framework for the analysis of the political system; the theory conceives to political activity as essentially involving the environment, the political system and output. The environment consists of the objective conditions and forces that generate demand and supports inputs. Support comprises adherence to laws or positive orientation, which promote the political system such as loyalty and patriotism. Demands are the articulated needs, problems and aspirations which are brought to bear upon the political system. The political system consists of the institutions, processes and personnel of government. The political system acts as a processor of inputs into outputs, which are authoritative allocations of values. This theory becomes essentially appropriate in the analysis of constitutional government in Nigeria and its perceived or real impact on coherence. From the classical philosophy of the system theory one would find that the Nigerian environment consists of the objective conditions and forces that generate demand and support inputs. This environment could be said to include the various nationalities and groups which act as forces on the constitutional government authorities that generates demand. Support consists of adherence to laws while demands are needs, problems which are brought to bear on government. The forceful manner by which the Nigerian federalism was formed required that a form of constitutional structure must be in a place to ensure coherence in the polity. Theoretically, the federal government authorities through elected or appointed political heads has constantly engrossed in trying to articulate and ensure coherence through the various constitutional government. (**Tonwe and Osennwota 1990:53**) noted that the system theory is "directed towards discovering and exploring the nature of multiple relationships among component parts as well as factors and influences, extremely which infringes on the component parts and the system as a whole. From the above analogy one would discover that the fundamental objective of constitutional government is to ensure nation building which requires that component units i.e. nationalities be consulted and make their values to be incorporated in the constitution. This will ensure the spirit of loyalty and patriotism, and be extension cohesion in the polity.

METHODOLOGY

Research methodology being method or techniques with which a researcher elicits data and its analysis, form one of the corner stone of any research work. Thus, the historical method is chosen to undertake this study. This explains the method in which the researcher traversed through the historical literature that are available, which express the historical linkage of the Nigeria's constitutional evolution. Therefore, secondary data were analyzed to arrive at the result presented in this paper.

Scope of the Study

The historical character that this paper has assumed made the researcher to limit the scope to cover the period of constitutional development in Nigeria from 1922 – 1999. Thus, the paper attempts to re-examine the evolution through the post-colonial governments that span through civilian and the military.

Colonial Elite and Constitutional Making in Nigeria 1922 – 1963

The attainment of a republican status and consequently constitutional government in Nigeria in 1963, can be regarded as a logical outcome of sequence constitutional developments that started with the Clifford's Constitution. Thus, an attempt to discuss the issue must succinctly analyze the political developments that took place in Nigeria between 1922 and 1963. The thesis of this paper is to objectively implore its reader to direct their attention to how these constitutions have tried to ensure coherence into Nigeria polity bearing in mind the fact that the various nationalities were forcefully welded together to form a nation-state. Sir, Hugh Clifford succeeded Lugard as the then Governor of Nigeria and grafted the 1922 Constitution. The constitutions setup a legislative Council and Executive Council. The Legislative Council had a total membership of 46. If these 46 members, only 10 were Nigeria out of which 4 were elected (one from Calabar and three from Lagos) (**Nnamdi 1996:81**). The aim of the councils, were among others to held and strengthen the government in the odious task of administering the country and ensure co-operation, coherence and sympathy between the government and the governed. The executive council which consisted of 11 permanent members was advisory in nature. These members basically key officials of the colonial government. The Clifford's Constitution had a number of merits and demerits. On the merit side, it did not only introduce the elective principle which was highly significant and novel, it equally led to the emergence of political parties. On its demerits the Clifford's Constitution isolated the north from the south since little attention was given to matters affecting the north and also excluded Africans from the executive (**Udo 2002:39**). In 1947, the Richard' Constitution replaced the Clifford's Constitution. (**Otoghile 1996**); (**Oyeleyes 2007**) put the objectives of this Richard' constitution as Richards put it were the promotion of unity of Nigeria, adequate provision from diverse elements that made up the country and to secure greater participation of Nigerians n the discussion of their own affairs. The Richard's Constitution created a nation-wide legislative council was made up of House of Assembly and an executive council. The legislative council was made up of forty-five members of whom four were elected and the remaining twenty-four nominated. A Regional House of Assembly was set up in each of the three regions and in addition in the Northern region, there was a House of Chiefs. These legislative bodies were set up to consider and advice on matters referred to them by the governor. The Richard's Constitution is significant in that not only did it incorporate the native authority into the constitutional structure of Nigeria; it equally for the first time gave the regions the opportunity to adequately discuss matters of special interest of them. In 1951 the Richard's Constitution was replaced by the Macpherson's Constitution. The Macpherson's Constitution enacted the principle of collective responsibility after it had allowed Nigerians to assume executive positions of ministers. However, the principle was enacted in such that it did not give room for the important doctrine of ministerial responsibilities. All ministers could do was to ensure in association with the appropriate public officers that affect was given to decision taken by the governor in the council of ministers relating to said matters (**Otoghile 1996:109**). Finally, in the Macpherson's Constitution Nigerians were excluded from policy making which appeared undemocratic. After operating for a little above two years the Macpherson's Constitution

collapsed and was replaced by the Lyttelton Constitution of 1954. The Constitution had a number of provisions. Prominent among the provisions were the adoption of a federal system for the country, direct elections to both the federal and regional legislatures, common electoral laws and finally advancement in parliamentary democracy. The Lyttelton Constitution having laid down the foundation of federal system of government, the country marched towards self-rule in subsequent constitutional development. A number of undertakings were given, such as “self rule 1956” for any region that demanded it, and the independence agitation was in any abated (**Oyeleye 2007; Otoghile 1996; Nnamdi 1999**). As a result, no constitution was except that minor adjustments were made to the 1954 Constitution. A number of constitutional conferences were held and a number of political decisions and steps were taken, such as, the self government in the West and East in 1957 and in the North in 1959 and the creation of the Eastern House of Chiefs in early 1960, a conference was held in London to put finishing touches to the independence constitution. The results of these conferences were creation of the position of the prime-minister, House of chiefs in Eastern Nigeria, two legislative House for the federation, a House of Representative and a Senate. Furthermore, the position of the Governor General of the federation was created while that of the chief secretary was abolished. Fundamental Human Rights were also written into the Nigerian constitution. The 1960 Independence Constitution retained the federal structure of Nigeria with fully responsible self government for the three regions; it provided a Judiciary Services Constitution made up of judges to advise on the appointment of judges of the High Courts and Supreme Court. The 1963 Republic Constitution can be considered as the product from colonial times through independence. The constitutions since 1922 have been subjected to examination and re-examination by scholars. Today, what seems certain from the various studies is that, these constitutions can be regarded as documents of continuity and expressing cohesion. We shall, however, begin with areas where the 1963 Constitution introduced some fundamental changes. First and foremost, the 1963 Republican Constitution tried to sweep away the last vestiges of colonial rule. Under it, the Queen was no longer the Head of State and she ceased to part of the legislative Houses of the federation (**Ikelegbe 1996:111**). Secondly, the Republican constitution unlike the previous constitutional arrangements was home grown in the sense that it came into being as a result of a law enacted by the Nigerian Federal Government. Thirdly, the 1963 Republican Constitution introduced the position of the president. The president unlike the Governor-General in the previous constitution was no longer a representative of the Queen of Great Britain. Under the Republican Constitution, however, the president was empowered to appoint the Chief Justice of the Supreme Court, the Chief Justice of Lagos and other by pushing the thesis that nationalists agitations pressed for constitutional changes, the philosophy behind the adoption of a federal constitution is to ensure cohesion.

The Military and Constitutional Development

From 1979 through to 1999 when the military disengaged from governance, the issue of constitutional government was at its lowest ebb. Although they had always hid under the constitution to take over power, they had always suspended existing constitution to allow for their activities. This section of the paper is not so much concerned with the detail provisions of the constitutions masterminded by the military but attempts to highlight its elitist role of the determining the character of this constitution. This was to allow for the effective control of the federation. The buildup to the 1989 Constitution the military government of Buhari/Idiagbon set up a Constitution review Committee (CRC) in September 1987 which reviewed relevant document; the political/Bureau Report and Government view on it, the 1979, the Constitution, the 1963 Constitution and the various decrees that amended or suspended the different parts of

the 1979 Constitution. The CRC concluded in its reports that there was nothing wrong fundamentally with the 1979 Constitution, but it however recommended certain changes which include the following.

- i. That while recommending the creation of more local governments, the procedure for the creation states, so as to minimize the incessant demands for such creation;
- ii. That the appointment of ministers and commissioners by subject only to consultation with the Senate or a house of Assembly as the case may be, instead of confirmation by these bodies;
- iii. That all public officers should declare their assets before assuming office.
- iv. That legibility ages for public elective offices be increased to allow for maturity and experience;
- v. That one-six year of chief executive both at the federal and state levels be provided for;
- vi. That adjudication of election results be removed from the regular courts;
- vii. That a mayoralty be created for the federal capital territory (FCT) so as to confirm its status and not as a state

Although, government did not make these recommendations public, they attempt to reflect the minds of the majority of the Nigeria civilian community. Another 563 member constituent Assembly was set up, which began meeting in May 1988. In attempt to subdue the lofty recommendations made by the (CRC), the government gave the CA undue terms of reference. (Oyeleye 2007:12) was corroborating this view when we said:

The Assembly was advised not to debate certain issues “no go Areas” as they were popularly called. The government diplomatically forced it to end its proceedings because the international conference centre was to be used by other international bodies such as ECOWAS and the OAU.

The birth of the 1999 Constitution did not follow a new pattern. General Abdusalami Abubakar Rtd succeeded Abacha as Head of State. His administration gave itself less than one year-twelve months to draw up and launch a new constitution. The sweeping characteristics of constitutional making in Nigeria which is non-participatory attracted the common reference that the 1999 Constitution is a fraudulent document in the sense that unlike what the constitution says in its opening paragraphs, “The people of the Federal Republic of Nigeria did not firmly and solemnly resolve to provide welfare of all persons in the country. Neither did make, enact and give to ourselves any such Constitution at that time.

CONCLUSION AND RECOMMENDATIONS

This paper is an academic assessments of the evolution of constitutional governments in Nigeria since 1922 till date; and comment on its implications on coherence or otherwise in the country. The history of constitutional governments in Nigeria had been chequered, elitist and highly non-participatory. The legal force of a constitution has always produce coherence in any state. This is why it is difficult for nationalities and component units of the federation to

withdraw without charge. Thus, we can say that though these constitutions did not carry the people along in the process of making them they have tried to maintain component loyalty and coherence. A constitution like any other law is only workable and enforceable when the people accept it and are willing for the most part, to abide by it. The 1999 Constitution like any other ones before it has faced strong criticisms from many sources, including the president elected it. Criticisms go beyond the fact that these constitutions are a production of the colonial elites and the military. The country has not arrived at a popular constitution because the document currently in operation is product of military dictatorship. The constitution is a lie to itself; because it was not endorsed, by the people in Referendum neither did it pass by a constitution assembly that is representative of the people (Nwanbueze 2007:106).

RECOMMENDATIONS

The constitution for the people's republic should entrench liberty and equity of all within a federal democratic dispensation in which power, responsibility and resources are decentralized and each tier of government is encouraged to utilize comparative advantage in which it does what it should and knows what it can or do within the constitutional order. Thus, the constitutional document must consist of multiple constitutions; one for the federation, and one for each of the states as determined by the people of the respective states. At all times, we must remind ourselves that Nigerian federalism was established to secure the country's unity and progress in the face of strong centrifugal forces. The devolution of Power, Responsibility, and Resources from the central government to the constituent units. The Nigerian experiment has become dysfunctional largely because of abandonment of its earlier revolutionary logic for decentralization, due to short sighted political leadership. We can attempt to address these problems now that we have seen the end of military rule. We must not lose sight of the fact that, given the right leadership, time and the required political space for positive action, the future will ultimately unfold on the side of a stable and coherent decentralized federal democracy. For it is difficult to perceive of a viable future for Nigeria outside a federal democratic framework. Specific constitutional precepts for a decentralized state will ensure coherence may include:

- i. Each of the federating unit has considerable autonomy to manage its affairs to innovate, to be creative, and to fully exploit its potentials, without dictations impositions or forced
- ii. No section or unit should feel dominated by other nor should any dominate in central apparatus
- iii. The centre cannot overpower, or take over, any of the federating units, and
- iv. The federation would be a voluntary union not a forced entity.

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