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QUESTION: 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 CONSTITUTIONS THAT HAVE AFFECTED DEMOCRACY IN NIGERIA.

**ABSTRACT**

The main aim of this paper is to present the idea regarding the problems facing all the constitutions Nigeria has had and to figure out the loopholes of these constitutions which has affected the democracy of Nigeria. The content from the constitutional point of view has prompted the addressing of democratic consolidations and effects of the Nigerian diplomacy. For proper understanding of the topic, the concepts “ constitution” , “ democracy”, and “democratic consolidations” are expatiated as they are connected to the idea of effects on Nigeria’s democracy.

The paper is expected to attempt a critical appraisal on the issues and effects of the Nigerians history of constitutions on the democracy of Nigeria. the paper discusses some of the impediments to the institutionalism of democracy in Nigeria after more than half a century of political independence. Some of these are the country’s colonial background interspersed by vagaries engendered by deep rooted ethnicity; complacent and spendthrift leadership; incessant intervention of the military in the democratic process; and high illiteracy level.

The information in this paper are gotten from historical scholars and information materials such as articles, journals and textbooks and online resources.

**WHAT IS A CONSTITUTION**?

A constitution is a set of rules that guides how a country, state, or organization works. The constitution may tell what the branches of the government are, what the powers they have, and how they work. It may also state the rights of the citizens. It can also be a written instrument embodying the rules of a political or social organization. The constitution is usually written down and contained within a single document; the UK is unusual in having an un codified constitution with many sources.

**WHAT IS DEMOCRACY?**

The word “democracy” comes from a Greek word demos, which means “common people” and kratos which means “ strength”. The term democracy first appeared in ancient Greek political and philosophical thought in the city-state of Athens during the classical antiquity. It was found in 508-507 BC by the Athenians and it was led by the Cleisthenes. Cleisthenes is also known as the “father of Athenian democracy” .

Democracy is a system of government by the whole population or all the elite members of a state, typically through elected representatives. It is government by the people in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system.

**WHAT IS A DEMOCRATIC CONSOLIDATION?**

Democratic consolidation is the process by which a new democracy , matures in a way that means it is unlikely to revert to authoritarianism without an external shock.

Through the presence of constitution, a new democracy cannot be reverted to an authoritarian system and the rights of the people can be protected which is why the constitution is important for the consolidation of democracy.

The Nigerian constitution history has been under two political dispensations which are the pre independence constitutions and the post independence constitutions. Constitutions from both dispensations have had anti-democracy tendencies which contributed in the problems facing Nigeria’s democracy.

**HISTORY OF NIGERIA’S CONSTITUTIONS.**

Nigeria's first constitutions were enacted by order in council during the colonial era when the country was administered as a Crown Colony. The constitutions enacted during this period were those of 1913 (which came into effect on 1 January 1914), 1922, 1946, 1951 and 1954.

In 1946 a new constitution was approved by Westminster and promulgated in Nigeria. Although it reserved effective power in the hands of the Governor-General and his appointed Executive Council, the so-called **Richards Constitution** (after Governor-General Sir Arthur Richards , who was responsible for its formulation) provided for an expanded Legislative Council empowered to deliberate on matters affecting the whole country. Separate legislative bodies, the houses of assembly, were established in each of the three regions to consider local questions and to advise the lieutenant governors. The introduction of the federal principle, with deliberative authority devolved on the regions, signaled recognition of the country's diversity. Although realistic in its assessment of the situation in Nigeria, the Richards Constitution undoubtedly intensified regionalism as an alternative to political unification.

The pace of constitutional change accelerated after the promulgation of the Richards Constitution. It was suspended in 1950 against a call for greater autonomy, which resulted in an inter-parliamentary conference at Ibadan in 1950. The conference drafted the terms of a new constitution. The so-called **Macpherson Constitution**, after the incumbent Governor-General, John Stuart Macpherson went into effect the following year.

The most important innovations in the new charter reinforced the dual course of constitutional evolution, allowing for both regional autonomy and federal union. By extending the elective principle and by providing for a central government with a Council of Ministers, the Macpherson Constitution gave renewed impetus to party activity and to political participation at the national level. But by providing for comparable regional governments exercising broad legislative powers, which could not be overridden by the newly established 185-seat federal House of Representatives, the Macpherson Constitution also gave a significant boost to regionalism. Subsequent revisions contained in the Lyttleton Constitution, named for Oliver Lyttleton, 1st Viscount Chandos and enacted in 1954, firmly established the federal principle and paved the way for independence.

### Constitutional independence (1960)

Nigeria's first constitution as a sovereign state was enacted by a British order in council so as to come into force immediately upon independence, on 1 October 1960. Under this constitution Nigeria retained Queen Elizabeth II as titular head of state.

### 1963 constitution (First Republic)

Independent Nigeria's second constitution established the country as a federal republic. It came into force on 1st of October,1963 (Nigeria's third anniversary as an independent nation). The 1963 constitution, which was based on the Westminster system continued in operation until a military coup in 1966 overthrew Nigeria's democratic institutions.

### 1979 constitution (Second Republic)

The 1979 constitution, which brought in the Second Republic abandoned the Westminster system in favour of an American -style presidential system with a direct election, directly-elected. To avoid the pitfalls of the First Republic, the constitution mandated that political parties and Federal Executive Council (Nigeria cabinet) positions reflect the "federal character" of the nation: political parties were required to be registered in at least two-thirds of the States of Nigeria or states, and each state had to have at least one member of the cabinet from it.

**1993 constitution (Third Republic)**

The 1993 constitution was intended to see the return of democratic rule to Nigeria with the establishment of a Third Republic but was never fully implemented, and the military resumed power until 1999.

### 1999 constitutions (Fourth Republic)

The 1999 constitution restored democratic rule to Nigeria, and remains in force today. In January 2011, two amendments of the 1999 constitution were signed by President Olusegun Obasanjo, the first modifications since the document came into use in 1999.

The constitutions of Nigeria since history possessed some demerits of which they are characterized with. Some of these demerits are;

1. **The Clifford’s constitution of 1922:** this constitution produced the elective principle as a major merit but it had a lot of demerits on the Nigerian government.

a). Sectionalism- The Clifford Constitution of 1922 brought sectionalism into Nigeria as the constitution was meant for the Southern protectorate alone. The Legislative council was also created for the south excluding the North.

b). The Legislative council was dominated by Europeans

c). Partial representation– The elective principle introduced by the Clifford Constitution of 1922 works only for the legislative council. The executive council is not elective.

d). Imposition – The people claimed that the constitution was imposed on them

e). The Governor-General had veto powers on issues discussed in the legislative and executive council

f) Partial Elective principle– Only Nigerians with resident qualification and have a gross income of £100 per annum which as at then was a very huge sum.

1. **The Richards constitution of 1946**: This constitution recorded the following demerits.
2. The constitution failed by not giving the Nigerian people an opportunity to participate in the actual administration of their country.
3. The constitution was promulgated with the least possible consultation with the Nigerian people.
4. The right to vote was limited to the people with high income or property.
5. The governor still retained his veto powers thereby making a mockery of the legislative council.
6. European interests were still represented by the legislative council.
7. **The Macpherson’s constitution of 1951**: The demerits are as follows;
8. The constitution did not provide for coalition or team spirit in the council of ministers.
9. It contained both the elements of unitary and federal forms of government.
10. The constitution did not provide for cohesion or team spirit in the council for Nigeria and Cameron (NCNC) in the eastern region was responsible for the collapse.
11. The constitution failed to give Nigeria a full responsible government rather it gave Nigeria full responsible government rather it gave Nigeria a semi or quasi-responsible government.

Other constitutions after Macpherson possessed their own demerits which all effects on the democracy of Nigeria today.

**MAJOR LOOPHOLES OF NIGERIA’S CONSTITUTION**.

If president good luck Jonathan was to be believed, Nigerians are about to write yet another constitution. It will be their ninth in the 24 years that they have had democracy out of the 53 years of independence from Britain. But, as peter jazzy Ezeh reports, the idea of the ninth constitution is raising dust in Africa’s most populous country.

During those 29 years, various military juntas simply dispensed with the national constitutions at work at the time and ruled by diktat. The civilian politicians who ruled during the 24 years didn’t make matters any better. The decision of the idea of a new constitution is as a result of vigorous campaigns by pressure groups which believe that the problems currently overwhelming Nigeria are the direct consequence of the lack of adequate participation by civil society before the current constitution was imposed in 1999 by the military government in power at the time.

Democracy today in Nigeria has issues which are associated which it and this , apart from corruption, is as a result of the foundational history of Nigeria which is their constitution. Colonization brought constitutions which were supposed to help Nigeria grow but rather it worsened the case and left Nigeria’s democracy in a state of ruin. Some of these issues are;

**The division of Nigeria into regions during the Richards constitution brought about the problem of inequality in Nigeria’s democracy today**. The great disparity into the size, population( northern region is very much larger than the eastern and western region combined), and resources of the three regions has not only created suspicion and resentment in the hearts of Nigerians against each other but has awakened deep-seated animosities and local prejudices, inter-regional and inter-party controversies, which appeared likely to undermine the federal structure and unity of the state.

There was also the demand for the creation of newer states in Nigeria which tends to emanate from sub-state groups, often ethnic- or tribal-interest groups, which accuse the current larger state government of subverting or ignoring interest and necessities of the more local regions.

**The exclusion of the northern protectorate by the Clifford’s constitution.** The north was excluded from the purview of the legislative council. The northern provinces were ruled by the proclamation as was the case under Lord Lugard. This isolation ha adverse effects on the political development in the area as Nigerians in that part of the country were indifferent to the nationalist struggles like their southern counterparts. African elites regarded this as a divide and rule policy of the British government to slow down the awareness of people.

Till date the issue of exclusion has left the north in an underdeveloped era, most northerners have less educational qualities and awareness than those in the south and east which has caused the high rate of ignorance of the Nigerian people and has had an effect on the Nigerian democracy of today.

**The exclusion of Nigerian officials in the executive councils of the Clifford and Richards constitutions.** The executive council was predominantly white officials to the exclusion of Africans. The council exercised wide powers on the policy formulation and implementation with far reaching effects on the lives of Africans. The Richards constitution had retained most of the objectionable features of the past. Though it aimed at securing greater participation of Nigerians in their own affairs, the new legislative councils created remained mere deliberative bodies with the retention of the veto powers by the governor. The constitution failed to provide for ministerial positions for Nigerians which the nationalist saw as step towards self governance. It came under heavy criticism by the nationalist who felt that both the chiefs and the unofficial members nominated by the governor were colonial stooges who always support the government. This exclusion prevented the idea of democracy in Nigeria as it excluded people from voicing their opinions and participating in the government of their own people. The creation of the Richards constitution was done without the consultation of the Nigerian people for their own inputs. There was the retention of casting vote and veto power on policy issues by the governor did not make the legislative council any better than the one it sought to replace. In addition, the nominated members were at liberty to act at the whims and caprices of the governor when matters came to voting. Voting was restricted to people with properties and enough money. This act had created the ignorance which Nigerians have today as they refuse popular participation and reject the idea of voting or participating in the government of their country. People have lost interest in the democracy of the country due to the initial restriction and underdevelopment that followed.

**CONCLUSION**

The paper has attempted a critical review on the history of Nigeria’s constitution, the problems that associates itself with these constitutions, the practice, pattern and prospects of the Nigerian constitution and democracy. One of the major findings and arguments of the paper is that while democracy is being nourished and made to take roots in other climes, it is being manipulated and malnourished in Nigeria. In his 1962 assessment on the practice of democracy in Nigeria, chief Obafemi Awolowo opined that democracy was “ penning away on its death bed.. it has been mercily assaulted and violated..it is already being made to suffer from gross misuse and utter lack of nurture. The pace of democracy is everything but progressive. At times it stagnates while at some other times it retards and this is as a result of the historical effect of Nigeria’s constitutions and foundations. Nigeria political history is replete with failed electoral processes, a cynical failure that returns the country to the scratch each time an attempt is made at making democracy get off the ground in the country.

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