Name: Adeniyi Toluwalope precious

Matric no:19/sms09/005

Course code: pol104

Department : international relations and diplomacy

Level:100

Question: Constitution is important for the consolidation of democracy however , the making of Nigeria’s Constitution have been under two political dispensation that have anti-democracy democracy tendencies and this has been great impediment to Democratic governance in Nigeria. Examine some loopholes in Nigeria Constitution over the years that have affected democracy in Nigeria.

Meaning of Constitution

Constitution is defined as the supreme law of the country and as such no law is higher than it can contradict it.

The Constitution can be traced to the 18th century . the first written Constitution ,in 1787 and France in 1789.

A Constitution consist of the basic norms which the people setting up the policy have accented to with the aim of establishing the kind of government that want setting up the rules that should guide it.

Constitution exist only because they lay certain rules for the political system . the Constitution is this a document of rules that govern the government.constitution is expected to bring stability and order to the auction of government.

The Constitution establishment of the Constitution in these two countries and consequently in many other countries points to the fact that the making of establishment of a new order consultation have come to be in some cases after a war revolution national independence creation of new political order for colonized state.

**Types of Constitution**

Written Constitution

Unwritten Constitution

Rigid Constitution

Flexible Constitution

Unitary Constitution.(etc)

**THE Clifford Constitution of 1922**

Sir Hugh Clifford became governor in 1922 in response to political agitation in Nigeria and some west African countries had to carry out some political reforms which gave room for more participation in the governance of the state in the legislative council.

How ever, although there was the attempt to ensure more representation at the legislative level there was not such a sitting at the executive level the situation that obtains Is that all executive members remain British.

As a colonial governor reported to the secretary of state the colony who happens to be a cabinet member of the British parliament. This goes reinforce the claim earlier made the course that colonialism ensured that governance was not responsible to the people of the colony but to the colonial masters .

A major role of the Clifford Constitution of the introduction of the electionprinciple to Nigeria. This led to election of four person with three representing Lagos and one representing Calabar.

This is in response to certain agitation at the local level of the response of certain Nigerians to Western education. It is also as a result of pressure from other African countries who were already agitating for against colonialisation and more inclusions.

There was an organization of the legislative council from 36 members which of Lord lugard to 46 members.

The 46 members comprises of twenty seven official members nine African unofficial members, three elected representative from Lagos one elected representative from Calabar.

The legislative council was responsible for the making of laws for the south. The northern part continued to be rulled by proclamation from the governor’s .their buttress the divide and rule policies of the colonial administration with separate laws for the south and is different set ofof approach to the north. The legacy of South style of governance is still obvious today . The governor exercise veto power over the laws made by legislative arm.

**Richards Constitution of1946**

After the exit of sir Hugh Clifford Donald Cameron and sir Bernard Boundilion ruled Nigeria. These two did not do much in terms offuther developing the Constitution. How ever, Boudlion, for administrative purpose divided up Nigeria into the north, east and west thereby introducing regionalism into Nigeria’s politics

The making of the Constitution during the colonial era was to someextent responsive to the yearning of people of Nigeria to buttress this is the fact that the Richards Constitution was in response to some complaints about Clifford’s1922 Constitution .

Colonial era Constitution was also to some extent responsible to the shape local politics because in actual facts they were dynamic that shaped events as a result of how people who were formerly free were relating to each other and the tension this was creating events also over time revealed the need to manage the difference among the different parts of the country.

The 1946 Richards Constitution responded to the yearning from Nigeria and to address certain issues peculiar to the evolving Nigerian nation which gets patriotism and cooperation of all Nigerians sons .

The Richards Constitution is enacted to promote unity in Nigeria and to ensure greater participation of Nigerians in in discussion of their own affair.

The Constitution came into effect on January 1st 1947. A major feature of the 1946 Constitution is that it introduced regionalism into the country.

This is obviously done out of the need to have the peculiarities of different sections of the country managed differently, the predominantly, north , the east with some stateless structure and the west with some state structures.

These different regions had different cultures some which is conflict and need to be managed

The three regions were allowed to have legislature there was the central legislative council of 45 members. To manage the difference between different parts of the country there was the creation of a legislaturethat will help manage certain peculiarity , the northern part of the country was given a Cameron.

Major improvement on the structure and duty of the legislature is that the central legislative council was to legislate for the whole country . this was in contrast to the previous arrangements in which the legislative council did not legislate for the particular region was sent to the legislature of that region from the legislative council in Lagos for consideration and advice.

**The MacPherson Constitution of 1951**

Richard’s Constitution was severely criticised by the nationalists, because it was imposed on Nigerians without any prior consultation. In order to express the criticisms, the nationalists of the Herbert Macaulay and DrNnamdiAzikiwe toured important towns in the country, educating the people on the political issues at stake and collecting donations to send a protest delegation to London. It was partly because of this protest that  the Richard’s Constitution which originally was intended to last for nine years was replaced in 1951 by MacPherson’s constitution. Its author, Sir John MacPherson, who succeeded Sir Authur Richards as Governor, was sensitive to the criticism that the Richard’s Constitution had not been based on prior consultation with the Nigerians. He therefore allowed three years from 1948 to 1951, for public opinion on his proposals to be expressed at district, provincial and regional levels.  After the operation of Richard Constitution, MacPherson Constitution was introduced in 1951. The Macpherson Constitution established a central legislative council and a central executive council for the country. The central legislative council known as the House of Representative.

The Constitution divided the country into three uneven regions – Northern Region, Western Region and Eastern Region, and in each region existed a Regional Legislature and an Executive Council. The various recommendations were considered  and many of them included in the final version of the constitution. Elections to any post must be direct and indirect methods,

The Central legislative body is known as “house of representative” it was a single chamber legislative.

The Central Executive is made up of the president, 6 ex-officials members and 12 ministers

Only male tax payers voted in the north. But males and females voted in the east and west.

In the three regions, some members were elected while others were not.

The Eastern region had a single chamber – the House of Assembly, there was no House Of Chiefs.

LYTTLETON CONSTITUTION OF 1954 .

The Lytteton Constitution was enacted in 1954and it established the federal principle and paved the way forNigeria's independence in 1960.

A Federal Legislature consisting of 184 members, which were elected directly and independently of regional assemblies.

A Council of Ministers with the governor-general as the President, with three official members, three ministers from each region and one minister from Southern Cameroon.

It retained the bi-cameral Legislature for both North and West, and uni-cameral for the East.

The leader of the majority party in the regional assembly was expected to be appointed the regional premier. The posts of permanent secretaries and the parliamentary secretaries were created.

It granted real law making powers to the regional legislatures, it recognized the need for gradual integration of various groups in Nigeria by passing power to the regional governments were given greater responsibility.

**The first republic Constitution in 1963**

Independent Nigeria second Constitution established the country as a federal republic. This Constitution was enacted on 1st October,1963 Nigeria’s third anniversary as an independent nation.

The Constitution was based on Westminster system continued until a military coup in 1966 overthrew Nigeria’s institution of democracy.

**The second republic ( 1979 Constitution)**

This Constitution abandoned the Westminster system in favor of 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 position reflect the federal character of nation. Political parties were required to be registered for at least two -third of the states of Nigeria, and at least each states should have one member of the cabinet.

**The 1993 Constitution ( the third republic)**

The 1993 Constitution was made to return Democratic rule to Nigeria with the establishment of the third republic and it was not fully Implemented and the military resumed power till 1999.

**The 1999 Constitution**

The 1999 Constitution restored democracy to Nigeria and it still remains till date. in January 2011 the amendments of the 1999 Constitution were signed by president olusegunobasango, the modification since the documents came into use in 1999.

**Definition of democracy:**

Democracy is a system of processing conflicts in which outcomes depend on what participants do, but no single force controls what occurs and its outcomes. The uncertainty of outcomes is inherent in democracy. Democracy makes all forces struggle repeatedly to realize their interests and devolves power from groups of people to sets of rules.Western democracy, as distinct from that which existed in pre-modern societies, is generally considered to have originated in city states  such as classical arthens  and the Roman public, where various schemes and degrees of enfranchisement of the free male population were observed before the form disappeared in the west at the beginning of late antiquity. The English word dates back to the 16th century, from the older middle French and middle Latin equivalents.

According to American political scientist Larry diamond, democracy consists of four key elements: a political system for choosing and replacing the government through free and fair elections; the active participation of the people, as citizens, in politics and civic life; protection of the human Rights of all citizens; a rule of law, in which the laws and procedures apply equally to all citizens.Todd Landman, nevertheless, draws our attention to the fact that democracy and human Rights are two different concepts and that "there must be greater specificity in the conceptualization and operationalization of democracy and human rights".

The term appeared in the 5th century BC to denote the political systems then existing in Greek city States, notably Athens, to mean "rule of the people", in contrast to aristocracy (*aristokratía*), meaning "rule of an elite". While theoretically, these definitions are in opposition, in practice the distinction has been blurred historically. The political system of Classical Athens, for example, granted democratic citizenship to free men and excluded slaves and women from political participation. In virtually all the ,democratic governments throughout ancient and modern history, democratic citizenship consisted of an elite class, until full enfranchisement was won for all adult citizens in most modern democracies through the suffrage movements of the 19th and 20th centuries.

Democracy contrasts with forms of government where power is either held by an individual, as in an absolute monarchy , or where power is held by a small number of individuals, as in an oligarchy. Nevertheless, these oppositions, inherited from Greek philosophy, are now ambiguous because contemporary governments have mixed democratic, oligarchic and monarchic elements. Karl popper  defined democracy in contrast to dictatorship or tyranny, thus focusing on opportunities for the people to control their leaders and to oust them without the need for a revolution.

**Democracy in Nigeria**

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.

This paper asserts that Nigerian democracy has three outstanding features. First, it is spendthrift. Nigerian

democracy is a brand of democracy that spends so much to accomplish so little (where and when it achieves anything

at all). Second, it invests in the comfort of officials rather than in human and material resources. In fact, the welfare

of the common man occupies the bottom rung on the ladder of the priorities of the anchors of Nigerian democracy.

Third, Nigerian democracy is plagued by hydra-headed and pathological corruption that ensures that the impact of

any seeming good policy is either extremely negligible or almost exactly nil. The paper however concludes that

while the balance sheet of democracy in Nigeria may be less than satisfactory; all hope is not lost as the desire for the

practice of true democracy amongst Nigerians remains unassailably high.

**Loopholes of Nigeria’s Constitution over the years that have affected democracy in Nigeria.**

**This includes:**  
 **Application of electronics in voting (card reader).**  
"In the last Senate, we passed an amendment to the Electoral Act, which was never assented to and one of the provisions was meant to address the issue of the application of electronics in voting. This is because under the present Electoral Act, it is forbidden and so we removed that restriction, giving INEC a free hand to determine at the appropriate time, when to use electronic voting.   
  
 **Death of an election candidate during election**  
 For instance, we saw a very unusual situation in kogi state ,where a candidate died half way into the election. This was not envisaged either in the Electoral Act or the Constitution.   
**vacancies**“In the Constitution, where a vacancy occurs in the parliament, that vacancy ought to be filled by INEC within 30 days but I have situations where courts give judgments and order that elections should take place within 90 days, clearly outside the 30 days prescribed by the constitution, INEC sometimes goes beyond the 90 days as ordered by the courts and still hold these election

**The problem of 1946 constitution**

The constitution failed by not giving Nigerians responsibility in the actual administration of their country

The governor still retained his veto powers thereby making a mockery of the legislative council.

The elective principle was still as restrictive as under the 1922 constitution.

There was widespread dissatisfaction with the constitution which led to its collapse in 1949.

The right to vote was limited to people with high income or property.

European interests were still represented in the Legislative Council.

The constitution was promulgated with the least possible consultation with the Nigerian people.

**The problems of Clifford Constitution 1922**

1. Whites dominated the legislative council.
2. Legislative council was only advisory.
3. Governor enjoyed unlimited powers.
4. North was excluded from legislature

**conclusio**n

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 in Nigeria the assessment of practice of democracy in Nigeria ; according to;

Chief Obafemi Awolowo108 opined that democracy was “pinning

away on its death-bed…it has been mercilessly assaulted and violated…it is already being made to suffer from grossely.