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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 over the years that have affected democracy in Nigeria.

ANSWER:

Firstly, a constitution is a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.

It can also be defined as the basic written set of principles and precedents of federal governments in the US, which came into operation in 1789 and has since been modified by twenty-six amendments.

It’s also a document that consists of the basic norms which the people setting up a polity have accented to with the aim of establishing the kind of government that the people want and setting up the rules that should guide it.

When these principles are written down into a single document or set of legal documents, those documents are said to embody a written constitution. If they are written down in a single comprehensive document, it’s said to embody a codified constitution. Although, some constitutions are uncodified, but written in nnumerous fundamental acts of a legislature, court cases or treaties. Constitutions concern different levels of organizations, from sovereign countries to companies and unincorporated associations. A treaty that establishes an international organization is also it’s constitution, In that, it would define how that organization is constituted.

Some constitutions, most especially codified ones, act as limiters of state powers, by establishing lines which a state’s rulers cannot cross, such as fundamental rights. The constitution of India is the longest written constitution of any country in the world. It contains 444 articles in 22 parts, 12 schedules and 124 amendments, with 146,385 words in it’s English language version. The constituti0on of Monaco is the shortest constitution, it contains 10 chapters with 97 articles and a total of 3,814 words.

Democracy on the other hand is a system of government by the whole population or all the eligible members of a state, typically through elected representatives. It was gotten from the Greek word ‘’Demokratia’’ which means ‘’rule by the people’’.

It’s also, according to Abraham Lincoln, a government of the people,by the people and for the people.

It can also be defined as a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections.

Generally, there are two types of democracy which are; direct and representative democracy. In a direct democracy,the people directly decide and deliberate on legislature while in a representative/indirect democracy, the people elect reprisentatives to deliberate and decide on legislature, such as in parliamentary or presidential democracy. The other types of democracy which are not so popular are; parliamentary democracy, hybrid/ semi-direct democracy, liberal democracy, socialist democracy, anarchist democracy, sortition, consensus democracy etc.

Parliamentary democracy is a form of representative democracy where the government is appointed by or can also be dismissed by representatives in contrast to a ‘presidential rule’ where the president is both head of state and head of government and is elected by the voters. A hybrid/ semi-direct/ participatory democracy is one which combines the elements of representative and direct democracy e.g switzerland and a few US states. A liberal democracy is a representative democracy in which the ability of the elected representatives to exercise decision making power is subject to the rule of law and moderated by a constutution or laws that emphasize the protection of the rights and freedoms of individuals. The anarchists are split in this domain, depending on whether they believe that a majority rule is tyrannic or not. Too many anarchists believe that the only form of democracy considered acceptable is direct democracy. Pierre Joseph Proudhon argued that the only acceptable form of democracy is one in which it’s recognised that majority decisions are not binding on the minority, even when unanimous.

The past constitutions in nigeria include:

Colonial era (1914-1960)

Constitutional independence (1960)

1963 constitution (First Republic)

1979/ Post independence constitution (Second Republic)

1993 (Third Republic)

1999/ Military rule constitution (Fourth Republic)

Colonial era (1914-1960):

This was the first constitution in nigeria. Here, the country was still administered as a crown colony. The constitutions enacted during this period were those of 1913 (which came into use on january 1st 1914), 1922, 1946, 1951 and 1954. Some of the features of this constitutuon were as follows:

* Each of them adopted parliamentary system of government and the british monarch as the head.
* The natives were consistently in unofficial capacity in the executive council.
* The government retained veto powers .
* All the constitutions were named after the white officials. The first three were named after the sitting governors, only the last which was lyttleton was named after the colonial secretary.
* Each constitution gave special recognition to the north, and the region was obviosly favoured at the south’s expense.
* The constitution favoured federalism and bicameralism. This started particularly with the efforts of Sir Bernard Bourdillon and his successor Aurthur Richard.
* They were promulgated by white colonial administrators.

The 1960 constitution (1960):

This was Nigeria’s first constitution as a sovereign state. It was enacted by a British order in council so as to come into force immediately upon independence on october 1st 1960. Nigeria still retained Queen Elizabeth II as titular head of state. The features of this constitution were as follows:

* The final court of appeal was the privy council in London.
* It gave federal government the power to declare a State of emergency in any part of the country
* The constitution divided the legislative powers of government into three; the exclusive list, the concurrent list and the residual list.
* The prime minister was the Head of state and the head of administration.
* A federal system of government was retained.
* Queen Elizabeth was still the Head of State, Nnamdi Azikiwe (the Governor General) was a ceremonial Head of State representing the Queen until October 1st 1963 when Nigeria became a republic state.
* The fundamental human rights were entrenched into the constitution.
* The constitution stated the procedure for the amendment of a constitution.

The 1963 constitution (1963):

It established the country as a federal republic. It came into force on october 1st 1963 (Nigeria’s 3rd anniversary as an independent nation). It continued in operation until a military coup in 1966 overthrew Nigeria’s democratic institutions. It’s features were as follows:

* The constitution further favoured the principles of fundamental human rights.
* The supreme court of Nigeria assumed position as the final court of appeal rather than the Judicial Committee of the Privy Council in Britain.
* The number of seats in the senate was increased from 44 to 56 and that of the house of representatives from 305 to 312.
* The act establishsing the constitution was passed by the Nigerian parliament, instead of the British parliament.
* In the absence of the president of the Republic, the senate president would act for him.
* The president would be elected by secret ballot by a joint session of the 2 houses of the federal legislature. He could be removed by impeachment of the house of representatives.
* There would be a Nigerian president as the constitutional head of state and commander-in-chief of the armed forces to replace the Queen of England.

1979/ Military rule constitution (second republic):

This constitution abandoned the Westminister 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 Nigeria’s 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 atleast one member of the cabinet from it. Some of it’s features were:

* The adoption of Presidential system of government as opposed to the parliamentary system being used before.
* The president of the country under the 1979 constitution had executive powers and is the Head of State and Head of government.
* The constitution also made whosoever becomes the President the Commander-in-Chief of the armed forces.
* It ensured that powers of governmetn were separated between the legislature, executive and the judiciary.
* The constititution was very expensive to run.
* It gave too much power to the executive (president).

1993 (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. It doesn’t have any distinguishing features.

1999 (Fourth Republic)

This 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. It’s features are as follows :

* The constitution effectively puts in place separation of powers and checks and balances.
* The nature of the constitution facilitates a very expensive administration.
* A lot of power is allocated to the executive
* The principle of individual responsibility makes the ministers and other members of the executive to be directly accountable for their actions and strive for acceptable performance.
* The constitution is very specific about the fundamental human rights, qualifications and limitations of citizens.
* It clearly stipulates the term of office for the elected officials.
* The decision-making process is not fast as a lot of protocols are often required.