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ASSIGNMENT: LOOPHOLES IN THE NIGERIAN CONSTITUTION OVER THE YEARS

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MEANING OF CONSTITUTION : A constitution is an aggregate of fundamental principles or established precedents that constitute the the legal basis of a polity, organisation or other type of entity and commonly determine how that entity is to be governed.

When these principles are written down into a single document or set of legal documents, those documents may be said to embody a written constitution ; if they are written down in a single comprehensive document, it is said to embody a codified constitution. Some constitutions ( such as that of the united kingdom ) are uncodified ,but written in numerous fundamental Acts of a legislature, court cases or treaties.

Constitution concern different levels of organisations, from sovereign countries to companies and unincorporated associations. A treaty which establishes an international organisation is also its constitution, in that it would define how that organization is constituted. Within states, a constitution defines the principles upon which the state is based, the procedure in which laws are made and by whom. Some constitutions, especially codified constitutions, also act as limiters of state power, by establishing lines which a states ruler cannot cross, such as fundamental rights.

The constitution of India is the longest written constitution of any country in the world, containing 444 articles in 22 parts, 12 schedules and 124 amendments, with 146,385 words in its language version. The constitution of Monaco is the shortest written constitution, containing 10 chapters with 97 articles, and a total of 3,814 words. The constitution of the united states of America is the world oldest continuously active codified constitution, having been in force since 1789. Only half of all constitutions function continuously for more than 19 years.

The constitution of Nigeria started off with **THE NIGERIAN COUNCIL OF LORD LUGARD the constitution was created in 1914 after the amalgamation by Lord Lugard. Membership was 24 official 12unofficial members. The unofficial members were; 6 Europeans representing commerce, shipping, banking, mining, chambers of commerce and 6 Africans, made up of sultan of sokoto, Alafin of Oyo, Emir of Kano, Chief Dogho Numa and a few educated Nigerians from Lagos and Calabar. The officials included members of the executive council, first class residents, political secretaries and secretaries of Southern and Nothern provinces. This council was purely an advisory body. It had no power of legislation nor of finance. It was a medium for public opinion and not even an effective one in this regard. Moat of the traditional rulers in the council could not see themselves as part of the issues of the council. Even the educated Nigerians were in an official capacity did not play any vital role either. So, in 1922, Sir Hugh Clifford succeeded Lord Lugard as the Governor of Nigeria. He abolished the Nigerian council and in its place a new legislative council was set up for the whole of Southern Protectorate. The North was to be governed by proclamation coming from the Governor.**

**In 1920, the National congress of British West Africa( NCBWA) was formed in Accra Gold coast ( Ghana). Joseph Casley Hayford and Dr. Akinwande Savage of Nigeria were instruments to its formation. One of the major demands of this body was the issue of granting elective principle. After the congress was constituted, it sent a delegation London, to present the petition stating it demands to the then secretary of state, Lord Milner.**

**The journey to London was an exercise in futility. The members were accused of self centeredness and that they represented no one but the educated class. The colonial office also argued that West Africans are not yet ripe for representative institutions it would amount to foolhardiness allowing them this. However, Clifford when setting up the legislative council made recommendation for granting of elective representation and this was granted by the new secretary of state for the colonies, Winston Churchill. Nigeria, then became the first country to adopt this principle.**

**LOOPHOLES IN THE NIGERIA CONSTITUTION ; Over the years Nigeria has had several constitutions starting from the Clifford constitution of 1922 and ending with the 1999 constitution being used till date. The reasons why these constitutions are being is because of the various demerits each constitution tend and when a constitution suffers from these demerits another one is made to correct the mistakes of the last one. Some of these demerits are as followed**

**Demerits of the Clifford constitution:**

1. **Disenfranchisement: Only for of the unofficial members were to be elected by an adult male suffrage with residential qualification of one year and a gross income of 100 euros per annum. The majority of Nigerians were disenfranchised**
2. **Legislative council: Europeans dominated this council**
3. **Executive council: It was also dominated and controlled by the Europeans.**
4. **Elective principle: Those elected were only for the legislative council and were unofficial. This franchise was not extended to the executive council**
5. **Dominated by illiterates: Illiterates who were in unofficial capacity dominated the legislative council.**
6. **Veto power: The governor had veto power over issues both in the legislative and executive councils.**
7. **Sectionalism: Cliffords constitution was accused of sectionalism by its definition. It was a constitution for the South only, the North was excluded.**
8. **Nomination: Majority of the members of the legislative council were not elected.**
9. **Application of elective principles: The application of elective principle was limited to Lagos and Calabar. Other part of the country did not experience this.**

**`Cliffords constitution was later replaced with the Richards constitution of 1946 which also had its own weaknesses:**

**1.The executive council: it was still dominated by Europeans as in Clifford’s Constitution. Changes were not made.**

**2. Elective principle: It was retained by Richard’s and Lagos and Calabar were only favoured. The principle of representation was not extended to other parts of the country.**

**3. Division of the country into unequal parts: The country was divided into 3 unequal regions, making the North larger than the other two combined.**

**4. Limited power to legislate: Limited powers were given the regional assemblies to legislate on minor matters and this should be subject to the governor’s reserved powers.**

**5. Nomination of Chiefs: The chiefs were nominated and not elected into the legislative council. Therefore, they mainly represented the interests of those that nominated them.**

**6. veto powers: The governor still had the power to veto bills and can reject or accept advice from members of the executive council.**

**7. Constitutional proposals: It was rushed through both in the legislative council and in the British parliament. Nigerians were not involved in discussing the proposals.**

**This constitution was later replaced by the Macpherson constitution of 1951 which also had its weaknesses:**

1. **The existence of Regional/Ethnic politics**
2. **No responsible government at the centre**
3. **Crisis in Eastern House of Assembly**
4. **The motion of self government**
5. **Kano riot of 1953**
6. **Veto power**
7. **Regional based political parties**
8. **Crisis with the NCNC**
9. **No provision for the office of a prime minister**
10. **Dual membership in the legislature**

**Lyttleton Constitution of 1954:**

1. **Loyalty of ministers to their regional leaders**
2. **No provision for the office of a prime minister**
3. **Retention of official members**
4. **No uniform electoral system**
5. **Second chamber**
6. **Veto and Reserve powers**
7. **Establishment of a Supreme court**
8. **Regionalization of the public service**
9. **Appointment**
10. **No second Chamber**

**The independence constitution of 1960:**

1. **Economic mismanagement**
2. **Embezzlement and mismanagement**
3. **Election irregularities**
4. **Disregard for the constitution**
5. **Tribalism and nepotism**
6. **Disagreement on revenue sharing**
7. **Interference in the military**
8. **Religious intolerance**
9. **Bribery and corruption**
10. **Effects of coup**

**Republican Constitution of 1963:**

1. **Head of state**
2. **Leader of the party**
3. **Dissolution of the house of representatives**
4. **Council ministers**
5. **Assent**

**Second Republican Constitution of 1963:**

1. **Impeachment clause**
2. **Costly to operate**
3. **Federal character**
4. **Delay in the execution programme**
5. **Problems**

**The Republican constitution of 1989:**

1. **Ineffective law-making**
2. **Two party-system**

**The 1999 Constitution:**

1. **Costly to run**
2. **Impeachment**
3. **Execution of programme**
4. **Activities in government**
5. **Concentration of powers**