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**MATRIC NO: 19/LAW01/228**

**COURSE: CONSITUTIONAL LAW**

**COURSE CODE: LPI 201**

**QUESTION: IT IS GENERAL BELIEVED THAT A CONSTITUTION SHOULD REFLECT THE SUPREMACY AND WISHES OF THE STATE. IN THIS CONTEXT, DISCUSS TO WHAT EXTENT THE CONSTITUTION OF FEDERAL REPUBLIC OF NIGERIA 1999 AS AMENDED IS AUTOCHTHONOUS**

**DEFINITION OF CONSTITUTION**

A constitution is therefore the supreme law of the land, which distributes power between different organs of government and determines their functions and relationship between themselves and the citizens. It is the organic law of a state and may be written or unwritten establishing the character and conceptualization of the government, laying the basic principles by which its internal life is to be conformed, distributing and limiting the functions of its different department and prescribing the extent and manner of the exercise of her sovereign power.

As a result of the importance of a constitution and its strict enforceability, most states involve their citizens in the constitution-making process. This is carried out by means of a representative body elected directly by the citizens for the purposes of constitution making. In some states, the outcome of this process is further subjected to a referendum to enable the people vote for or against the proposed constitution. This process is known as direct democracy. A constitution that evolves from this process is regarded as autochthonous having been made by the people themselves.

The actual participation of the common citizens in the promulgation of a statute that would be binding on them would legitimize not only the process but also the outcome. The necessity for legitimacy of a constitution need not be over-emphasized as its importance is also the reason why most written constitutions are commenced with the phrase “we the people”, which signifies the participation of the citizenry and their intention to be bound by the provisions contained in the constitution. In the case of Nigeria as we shall see, the recurring of such phrase in the preamble to all her constitutions, past and present are nothing more than mere embellishment.

The legitimacy of Nigerian constitutions has consistently been put in doubt as Nigerians have consistently agitated for a sovereign national conference to cater for the opinions and needs of the Nigerian public bearing in mind her cultural and ethnic differences. These agitations as we shall see in this paper have fallen on deaf ears.

A Constitution is autochthonous if it derives its creation and legitimacy from the people it intends to govern. To be clear, a Constitution is not autochthonous if it is enacted by a colonial power or has external influence. In the exact definition of autochthony, the 1999 Nigerian constitution can be considered to be autochthonous, since it was Nigerians who deliberated, drafted and promulgated the Constitution, themselves.

**History of Constitution-Making in Nigeria**

The constitutional history of Nigeria may be classified into about four (4) phases. These are: 1) the period of colonial administration; 2) the period of internal self-government; 3) the period of independence; and 4) the period of military rule. We shall briefly highlight the manner of constitution making in each of these phase

 **The Period of Colonial Administration**

This is the period Nigeria was ruled by the government of Britain. During this period constitution making was the sole responsibility of the colonial government seated in London. This period commenced from 1914 when the colony and protectorate of southern Nigeria was merged with the protectorate of Northern Nigeria and terminated in 1946 before the making of the RichardsConstitution. During this period, constitution making was carried out by the colonial power acting by and through the British officials in Africa. In fact, between 1914 and 1920 the only existing legislatives council was only restricted to the colony of Lagos and members were made up of British officials only. For the rest of the protectorates of Nigeria the Governor General was empowered to make law by way of a proclamation. Further the legislatives council was mainly advisory in function. In 1922 a legislative council of Nigeria was established, it was however restricted to the southern protectorate and the Lagos colony.

By 1946 however, a new Constitution was tabled before the legislative house for adoption by the then Governor- General, Governor Richard. Although there were indigenous members in the federal legislative house at this time, the Constitution was poorly received as it was conceived and promulgated with least possible consultation with Nigerians with whom it was intended.

 **The Period of Internal Self-Government**

This period dates from the making of the Macpherson Constitution of 1951 to the period of independence. One remarkable feature of constitution making in this period was that before the adoption of the draft Constitution (Macpherson’s Constitution, 1951) a series of questionnaires was submitted for discussions at various levels; villages, districts meetings, and at provincial and divisional conferences followed by regional conference and Lagos colony conference and rounded off with a general conference in London. For the first time, Nigerians were given opportunity to participate in the framing of the Constitution under which they were to be governed.

However, this Constitution could not endure as events unfold rapidly indicating the preference of Nigerians for a federal constitution and an accelerated transition to full independence for the country. A conference was held in London between July 1953 and August 1953 as well as in Lagos in 19th January 1954 under the chairmanship of Sir Littleton. The aftermath was the birth of a new constitution named after Oliver Lyttleton. This Constitution was an aftermath of series of negotiations between the Nigerian Nationalists on the one hand and the British representatives of her majesty under the Control of the Governor General, and the Colonial Secretary, Sir Oliver Lyttleton. The people of Nigeria collectively were not consulted neither was there any constituents assembly elected for that purpose, the outcome of the conferences was also not subject to referendum or Plebiscites.

It is worthy to note that all the succeeding Constitutions up to the 1960 Independence Constitution of Nigeria were subject to the ratification of the British government represented by Her Majesty the Queen. This act of ratification by the British crown bereft these constitutions with the legitimacy required of a constitution donned with autochthonous character.

**The Period of Independence**

Constitution making took place after the period of independence, which climaxed with the enactment of the Republican Federal Constitution of 1963. The granting of independence to Nigeria in October 1960 following the 1960 Independence Constitution did not guarantee autochthonous constitution as the said Independence Constitution was a brainchild of the British Government promulgated by means of a British ordinance.However, the granting of independence having marked the realization of her self-realization; the desire for a republican constitution terminating all the vestiges of colonialism was accelerated by the aftermath of the decision of Privy Council in the appeal case of ***Akintola v Adegbenro***.The federal government having been embarrassed by the appeal decision of the Privy Council overruling the judgment of the federal Supreme Court of Nigeria; an indigenous appellate court, which served as the Nigerian appellate court then,(not final court of appeal) moved fast to amend the Independence Constitution. The result was the enactment of the Republican Federal Constitution 1963.

The Republican Constitution of 1963 is acclaimed as the first and only autochthonous Constitution of Nigeria having been made and adopted by the parliament comprising only of Nigerians elected for that purpose by the people of Nigeria.The Constitution made Nigeria a republic, the implication being that all the constitutional links and influences of her majesty the queen were severed and extinguished.

The unique features of the Republican Constitution included;

a) The abolition of appeal to the Privy Council and the establishment of a Supreme Court of Nigeria as the court of last resort.

b) The abolition of the requirement of her majesty’s consent before a bill is assented by the president or Governor-General.

c) Provision for the supremacy of the constitution instead of the British crown.

The inadequacy of the Republican Constitution was that it was merely a re-enactment of the Independence Constitution with few amendments, which included the above stated features.13 Further, the people of Nigeria were not as individuals given opportunity to discuss and make input, neither was the final draft subjected to a referendum for final adoption by the people.

 **The Period of Military Governance**

The period of military constitution making is the period commencing from the period of conception of the 1979 Constitution of Nigeria to the present 1999 Constitution of Nigeria. The operation of the Republican Constitution of 1963 could not be sustained as the military made their introit into Nigerian political scene. A failed military coup had taken the life of the Prime Minister and other top government functionaries. As the President, Dr. Nnamdi Azikiwe was on vacation at the moment, The Acting President then, Dr. Nwafor Orizu, having been overwhelmed by the incidence voluntarily handed over power to the military expressing his “fervent hope that the new administration will ensure the peace and stability of the Federal Republic of Nigeria and that all citizens will give them (the military) their full cooperation” for the purpose of maintaining law and order and of maintaining essential services. Thus power was handed over to the military under the headship of the General Officer Commanding, General J. T. U. Aguiyi-Ironsi. This military government which was stated to be ruled by way of decreepromulgated Decree No. 1 of 1966 which abolished or suspended certain democratically functional part of the 1963 Republic Constitution to give full effect to the military government.These ushered in what later became a protracted period of military Dictatorship with its attendant ill effect on Constitutional order.

From 1966 to 1999, different military government did attempt to introduce a constitutional order by a somehow thwarted programme of transition to democratic governance usually intertwined with the reconstitution of a constitution making body. while the first military government did not establish any programme of transition before the untimely demise of the Head of the military government, major General J. T.U. Aguiyi Ironsi in an unsuccessful military coup, his successor General Yakubu Gowon though promised to hand over power to civilian administration in 1976 after the civil war of 1967/1970 but retracted from his promise.

On 29th July, 1975, General Murtala Mohammed succeeded him in a military coup. It was this military administration that for the first time initiated a programme of transition, and to make good its promise, the government appointed a Constitution Drafting Committee in October 1975 comprised of forty nine (49) persons. The result of the Constitution Drafting Committee (CDC) was subsequently tendered before a constituent assembly of 230 members elected through members of the Local Government Council; appointed by the military government. The Draft constitution on completion was submitted to the Military Government of Olusegun Obasanjo whose administration tinkered with the Draft Constitution and thereafter promulgated same into the 1979 Constitution.18

This military promulgated Constitution of 1979 heralded the brief exit of military rule and a short introit of democratic government of Shehu Shagari who was elected on 1st October 1983 but was overthrown on December 31st 1983 barely two months of the inauguration of his government. The democratic system was regrettably a still birth. The new military government headed by General Mohammed Buhari and Tunde Idiagbon could not initiate a transition programme to civil rule before it was ousted by another military Junta led by General Ibrahim Babangida.

The Babangida administration initiated the most elaborate and expensive programme of transition which took a period of eight years but could not yield any tangible result. This transition programme initiated a process of constitution making resulting to a Draft Constitution of 1983. The Babangida administration set up three bodies specifically for the purpose of piloting a new democratic constitution. These bodies were; the Constitution Review Committee, which was mandated to review the past constitutions and make recommendations, the reviewed report was to be submitted to the second body; The Constituent Assembly made up of 450 members inclusive of 111 members nominated by the military government. The constituent Assembly took about one year to deliberate on the Draft Constitution and made recommendations to the Armed Forces Ruling Council Presided by President Babangida.The members of the constituent assembly were forbidden from deliberating on what was described as sensitive matters which were left to the Armed Forces Ruling Council to determine. The third body was the Political Bureau set up in 1986 for the purpose of organizing debate on the future of the Nigeria Political system.The outcome would have been the promulgation of the 1989 Constitution of Nigeria and a successful transition to civil rule. The annulment of the Presidential Election of June 12, which Chief Moshood K. O. Abiola was popularly acclaimed to have won, led to the demise of the still birth 1989 Constitution. An interim government took over power as President Badamasi Babangida stepped out of power. The new Interim National government which was believed to be an illegal governmentcould not survive as the head of the interim government was removed in a palace coup by General Sanni Abacha who took over power.

Between 1994 and 1998, General Sanni Abacha commenced his own protracted programme of transition to civil rule. A Constitutional Conference Commission was set up pursuant to Decree 1 of 1994 and charged with the task of organizing conferences, inviting and receiving memos from Nigerians for submission to the Constitutional Conference Commission. The commission was made up of 369 delegates among whom 96 were nominated by the Provisional Ruling Council (P.R.C) headed by General Abacha. Like its previous constitution making assembly, the delegates were not permitted to deliberate on issues of Nigerian unity, the federal structure as well as the June 12 annulled election.

The Provisional Ruling Council further appointed a review committee to advice the government on the necessary changes to the Draft Constitution. A Constitution Analysis Committee was appointed to review the work of the Review Committee after which the Draft Constitution was examined by the following bodies; The Federal Executive Council, The Council of states and the P.R.C. By October 1, 1995 the government announced the changes on the final Draft Constitution. The Mysterious death of General Abacha the head of the ruling Provisional Ruling Council, saw to the end of the constitution making process as another military government headed by General Abdulsalami Abubakar took over power.

On assumption of office, General Abubakar vowed to commence an accelerated transition to civil rule. To make good this promise, a 24 member Constitution Debate Committee (CDC) was constituted to deliberate on the 1995 Draft Constitution for the purpose of adopting same. The idea of adopting the 1995 Constitution was not palatable to many notable Nigerians as a result of the stigma of illegitimacy attached to it owing to the misgivings associated to the personality of the late Sanni Abacha the brain child of the Draft Constitution. As a result, the military government of General Abdulsalami decided to review and promulgate 1979 Constitution as the new 1999 Constitution of Nigeria with little amendment. This remains the current Constitution of Nigeria.

The 1999 Constitution at present has experienced some amendments by Nigerian Federal Legislators. There exist however as much as the years before, if not much more, loud clamour for a people-driven National Convention for the purpose of evolving a democratic based Constitution founded on the free will of the people of Nigeria and not a Constitution made by way of a military Fiat.

One of the major characteristics of all the past and present Constitutions of Nigeria is that Nigerians were not given a free hand to participate in the making of these Constitutions. Although in few cases, some of the delegates were elected, yet a larger number were usually appointed by the military government of the day.

It is worthy to note that these successive colonial and military governments ruled not by the collective will of the people of Nigeria but through the force of arms. Meanwhile, it was the practice for the final Draft Constitutions to be tinkered by these successive unconstitutional regimes.Throughout these periods, Nigerians led by pro-democracy groups have persistently agitated for an all inclusive Sovereign National Conference with the powers to steer itself toward evolving a people oriented Constitution for the Country. These successive regimes have however rejected these patriot calls based on pre-modal fears that it may precipitate to the disintegration of the Country.

As Nigeria moved to the 4th Republic, stringent calls for people’ driven Constitution were rebuffed by successive civilian administration based on the ill founded logic that it will amount to the existence of two Sovereigns in a state, to bestow a parallel body outside the National Assembly with a law making power. This is irrespective of the fact that our government is fully aware of other States that have followed this modern trend of evolving a people made Constitution through conferences outside the legislatures of their States. The Nigerian successive civilian administrations have preferred holding a political Jamboree in the name of Political conferences, which conferences have not materialized in entrenching a people’s acceptable constitution. It is to be noted that the administration of Olusegun Obasanjo did set up a national political reform conference at the inception of his administration;31 the outcome of this expensive jamboree conference has been lying in the dustbin of history. Also toward the end of his tenure, President Goodluck Jonathan also set up a political conference of selected and nominated members on March 17, 2014 among other objectives according to him was:

to engage in intense introspection about the political and socio-economic challenges confronting the country and to chart the best and most acceptable way for the resolution of such challenges in the collective interest of all the constituents parts of the country.

None of the outcome of the conference was implemented or materialized into a constitutional text. Commenting on the illegitimacy and the consequential ineffectiveness of such constitutional conferences or dialogue to culminate into a constitutional binding document,

Chris Uche (SAN) stated thus:

… Once the dialogue does not have the status of a SNC (sovereign national conference) it would not achieve any purpose for Nigeria. At best, it would serve to douse tension in the land by diverting the attention of Nigerians from the real issues and help politicians to prepare for 2015.

At the end of the day, the outcome will not have the force of law as long as it is subject to the approval of the President or the legislature. As far as I am concerned, only a SNC, which will have the force of law, can serve the real purpose of a conference and nothing else.

In addition to use of conferences of people elected for the purpose of evolving a Constitution, modern States have accepted the use of Direct Democracy, known as referendum for the purpose of enabling all citizens to participate in Constitution making and the adoption of the final Draft of the Constitution.

**The Legitimacy of a Constitution**

A legitimate constitution must evolve from the legitimate will of the people. A promulgation or enactment of a constitution by an undemocratic government does not bestow same with the character of legitimacy. Even the stereotyped phrase in almost all the successive Constitutions of Nigeria to the effect that “we the people of the Federal Republic of Nigeria …” made the Constitution, does not, and cannot clothe them with legitimacy. Further, it is the Constitution that ennobles and legitimizes government and not the other way round. Therefore an illegal regime; government not supported by or derivable from the Constitution cannot legitimately foist its own constitution on the people.This is because of the well known accepted principle that political sovereign inheres with the people and such the people reserves the right to determine by themselves how best they want to be governed. Sovereignty is described as inalienable.

In the era of Hobbessian Leviathanic monarchs, sovereignty lied with the Kings or Queens. During the ecclesiastical period of the Reign of Pope in Rome, the custodian of sovereignty was the Pope. However, in this modern era of republicanism and democracy, sovereignty inheres with the people; the citizens of the state. It cannot be delegated nor transferred even temporarily to government officials.

The idea of social compact has as well experienced modernization. This idea as explained by Rousseau is one entered by the citizens with themselves for the purpose of self preservation. This notion of social contract in the perspective of Painedoes not amount to surrender of sovereignty to a class of people. According to Paine;

There is no such thing as the idea of a compact between the people on the one side and the government on the other side to preserve and constitute a government. To suppose that any government can be party in a compact with the whole people is to suppose it to have existence before it can have right to exist. The only instance in which a compact can take place between the people and those who exercise the government is that the people shall pay them while they choose to employ them.

No matter what may be its own preconceived advantage, any process by which an existing legislative assembly be it elected or otherwise, without prior popular mandate for the purpose of enacting a constitution purports to make a constitution, cannot be a reflection of the popular will of the people. This is because its mandate is limited to lawmaking according to the provisions and limit of the existing Constitution.

The lawmakers cannot go outside the Constitution upon which they derived legitimacy no matter the popularity or exigencies of such temptation as the outcome will be ultra vires. A Constitution will be an act of the people if it is made by them either directly in a referendum or through a convention or constituent assembly popularly elected for the purpose of Constitution making and nothing else.

It is not the formal act of promulgation that crowns the Constitution the character of legitimacy as an act of the people. The legitimacy of the constitution is concerned with how to make it command the loyalty, obedience, and confidence of the people. It cannot be disputed that a constitution often embodies ideas that are not part of the native cultural heritage of the people, like ideas originating from Roman law, Greek philosophy, English as well as American and French revolutions. No matter how popular such ideas may sound, it is fundamentally essential that the people are made to be acquainted with as well as voluntarily accept this foreign heritage otherwise such ideas will be resisted by the people.

Therefore, to achieve this understanding and acceptance, a constitution needs to pass through a process of popularization with a view to generating public interest in it. The people must be made to identify themselves with its ideas and contents; otherwise it will remain remote, artificial with no more existence than the paper on which it is written.

A constitution needs not be necessarily ‘enacted’ by the people to have legitimacy, what is necessary as stated above is that the people should be involved in the process of its making.

The argument that constitution making is an act of lawmaking of which only a state machinery can perform and such that the people either in a referendum or through a constituent assembly elected for that purpose are not legally competent to adopt a constitution and bestow validity upon same is founded in error. If the state is a creation of the people by means of a constitution and derives its power of lawmaking from the people then the people who constituted the state and granted power to the constitution can always act directly in a referendum or otherwise for the purpose of directly conferring on the constitution the character of legitimacy.The mandate conferred on the President and members of the National Assembly by their election is only a mandate to govern under and in accordance with the provisions of that Constitution and to make as such amendment as may be necessary, such changes in them not affecting the fundamental structures and principles of the system of government established by the Constitution. It is a limited mandate, and is not meant to substitute the people as the repository of constituent power. This proposition was earlier accepted and affirmed by the late respected Prime Minister, Alhaji Sir, Abubakar Tafawa Balewa.The Prime Minister stated during the debate on the transition to a Republican Constitution in 1963 that the demand for a change from the existing West Minister parliamentary System of government to a Presidential System was of such fundamental and radical nature as put it beyond the mandate of the government to effect without the approval of the people in a referendum and that without such approval, only non-fundamental changes were within the government’s power to make under the provision in the 1960 Constitution relating to constitutional amendment.` ***Any amendment process affected pursuance to the constitutional limitation itself cannot bring about an autochthonous constitution, but rather an amended Constitution.***

The problems confronting the Nigerian federal state are of such complexity and enormity as to require fundamental and radical changes in her Constitution, which put them beyond the power of the government to effect by way of constitutional amendment without recourse to the people through the machinery of a referendum. The limited nature of government’s mandate in this regard is further underlined by the universally recognized distinction between its legislative organ and a constituent assembly. The latter is an assembly specially mandated by the people, as the repository of a country’s constituent power, either to adopt a constitution on their behalf or to draw up proposals for a constitution to be submitted for adoption by the people in a referendum.

**Referendum and Plebiscite**

'We the people,' the first three words of the 1999 Constitution refers to the period when the Constitution became effective and operative, it does not as it has been mistakenly held, refer to process of making the Constitution. It is obvious that there is no way every Nigerian will be able to make an input and agree on the structure and content of the Constitution. It is impracticable and impossible to include all Nigerians born and to be born in the process of the drafting and promulgation of the Constitution. If ‘We the people’ is to be read as referring to the drafting process it would also be inaccurate if the Constitution was affirmed by a referendum, as a 100% yes would be impossible.

Plebiscite and referendum are two forms of Direct Democracies employed in modern times, the former having originated from French revolutionaries and described as “totalitarian democracies”. Through Plebiscite people were prompted to vote on specific matters to provide legitimacy to government actions. Its origin is traceable to the ancient Rome in the fourth century when the plebeians or the commoners directly participated in law making process.Today plebiscite is used to describe a vote that is advisory or consultative rather than legally binding on the government.

The referendum on the other hand originated from the Switzerland in the middle of the nineteenth century and were employed as a substitute to the previous outdated and presently unrealistic method of assembling voters in a place for the purpose of deciding major policy decisions, as it was no longer possible to congregate citizens in one place so as to make them vote.Through referendum direct constitutional or political questions were presented to an electorate for direct decisions by general vote.

In the modern times referendum has become a popular tool of policy making associated with republican Democracy. Since the beginning of the twentieth century, referendum has been accepted as an effective tool for policy making by government around the world. Today referendum is the most people friendly election device in which a law can be either accepted or repeal based on the popular vote of the people. Through the process of referendum voters can reject or accept law or statute passed by a legislature by taking a popular vote on the issue. Both constitutional changes and legislative changes may be carried out through the process of referenda.

**SUMMARY**

***The 1999 Constitution has been erroneously seen as one of the root cause of Nigeria’s troubles. Many have criticized and still criticizing that the Constitution is not autochthonous, and that it is incompatible with the principles of devolution and decentralization. A consensus among certain Nigerians is that the Constitution does not in anyway encompass the ideas of fiscal federalism and resource control. Due to these misconceptions, it is important to explain how the provisions of the Constitution ensures decentralization and fiscal federalism, but first, it is necessary to consider whether the 1999 Constitution truly emanate from Nigerians, or simply put, homegrown.***

Some constitutional lawyers and teachers of law have extended the meaning of autochthony to include total inclusiveness of the citizens in the drafting process of a given Constitution, most have erroneously asserted that it was the military regime who engineered the 1999 Constitution, like they did of 1979, without exempting 1989's. It is a mischievous assertion. The right argument may be that the military regime promulgated the 1999 Constitution into law.

The origins of the 1999 Constitution could be traced to the 230 member constituent assembly in 1977 which debated the draft 1979 Constitution, the 567 member constituent assembly in 1988 which produced the draft 1989 Constitution and to some extent the 1995 constituent assembly which produced the Abacha Constitution famous for proposing a rotational presidency.

In 1998, a 25 member Constitutional Debate and Co-ordinating Committee headed by Justice Niki Tobi was inaugurated by General Abubakar in November 1998. The committee called for contribution from all Nigerians, 405 memoranda were received with public hearings held at various debate centres. The committee submitted its report to the Provisional Ruling Council with the council amending some part of the reports. The Federal Ministry of Justice then produced a draft based on the committee’s report which was then promulgated by the enabling law. It will be fair to say that 1998 option was better as it not only prevented waste of time and resources it also ensured the labours and strives of the members of past constituent assemblies and draft committees were not in vain.

Some have criticized the time frame given to the Tobi committee as too short which lead to a rushed report. It is important to note that the committee was neither a conference nor a constituent assembly so it will also be fair to say that the less than two months time frame was enough for the committee to produce its report.

The Tobi Committee was meant to collate the views and recommendation of Nigerians on the 1995 Draft Constitution report, it turned out that Nigerians preferred the 1979 Constitution, one of the reasons being that 1979 Constitution had been tried and tested. In this regard, it will be unfair and wrong to say the 1999 Constitution was made or forced on us by the military. Every Nigerian had the opportunity of making an input. The provisional Ruling Council’s amendment could be seen as the military’s contribution, as the institution is also part of Nigeria.

The Promulgation Decree No. 24 of 1999 is very important for all read, it explains the transition process and the need for the transition. What makes the 1999 Constitution binding and legitimate is the ‘continuous ratification’ of it by Nigerians. The courts recognizing, interpreting and construing the Constitution, elections being held in accordance with it and the alteration of it by National Assembly in accordance with its provisions. By these acts and more the majority have come to accept the Constitution as that of the people. A referendum is one of the ways and not the only way of ratifying a Constitution, the fact that a referendum on the 1999 Constitution was not held does not in any way affect it legitimacy. A Constitution may either be ratified by a referendum or as a matter of course via subsequent alteration(s) and general elections.

Reducing and questioning the legitimacy of the 1999 Constitution is a baseless exercise that must be discarded. The young and new generation of Nigerians must not fall into the trap of believing that the 1999 Constitution was imposed or forced on Nigerians by the military. Nigerians had the opportunity to contribute, made good use of it and the general consensus produced the 1999 Constitution. The way forward on constitutional reforms should be the amendment of the 1999 Constitution in accordance with its provisions. An amendment which should focus on lingering issues such as resource control, state policing, local government autonomy and associated agitations.

We have so far X-rayed the history of constitution making in Nigeria and demonstrated her inability to evolve a people driven constitution, which is acceptable, by the citizens. We have further considered the true source of legitimacy of a constitution and the imperative of a constitution made by the people through a constituent assembly elected for that purpose and submitted to the people by way of a referendum. We noted that a people’s made constitution is in conformity with the practice of republican democracy, which encourages popular participation in the governance process. This is a process followed by most states of the world today and Nigeria should follow suit. It is therefore submitted that even under a democratic regime, Nigeria can organize a constituent assembly with the aim of effecting a fundamental and lasting changes to the constitution or with the aim of radically bringing into life a new and autochthonous constitution, which shall be subjected to a referendum. The method of voting at the referendum shall be Yes/No response to the key decisions of the conference. Such constitution made in this direct democratic manner will gain legitimacy and support from the citizens and therefore engender political cohesion and a virile federal Nigeria.