

Constitutional Development in Nigeria

Introduction

The amalgamation of the Northern and Southern Protectorates and the subsequent establishment of the Nigerian Council in 1914 by Lord Lugard no doubt, opened a floodgate of criticisms from the African elites and some colonial officials alike. One of such non-African critics was Sir Hugh Clifford who was later to succeed Lugard in 1919. In a confidential letter dated July 7, 1922 he made some scathing observations and later, recommendations on the Central Legislative Council and other administrative policies of Lord Lugard. Therefore, on assumption of office, Sir Hugh Clifford introduced a new Constitution with some striking provisions that distinguished his administrative system from that of his predecessor.

Hugh Clifford Constitution

Following the perceived drawbacks in the Lugard's administrative and constitutional arrangements for Nigeria, the educated Africans especially in the coastal towns mounted agitations for political reforms that would give Africans rights to participate in their own affairs. The National Congress of British West Africa with its headquarters at the Gold Coast (now Ghana), made representation to London with a petition calling, among other things, for greater representation of Africans in the Legislative Council throughout the British West African Territories (Price 1967:37).

In 1919 Lord Lugard was posted out and was to be replaced by Sir Hugh Clifford who assumed office in 1922 following the passage of a new Order by the Nigerian Legislative Council which came into effect in 1923. What was later to be known as the Clifford's Constitution of 1922 opened the epoch of Constitutional development in Nigeria. Clifford merged the Legislative Council meant for the Colony of Lagos with the Nigerian Council to become a new one under the new ordinance. The Constitutional Order provided for the following membership.

The Nigerian Council

- i) Official members 27
 - ii) Unofficial members (non-Africans) 09
 - iii) Unofficial members (Africans) 06
 - iv) Elected unofficial African members (Lagos) 03
 - v) Elected unofficial African members (Calabar) 01
- Total. 46

Composition of Official Members

The official members were composed of:

1. The Governor (as the President)
2. Executive Council members
3. The Ten Senior Residents in Nigeria
4. The Deputy Chief Secretary to the Government
5. The Secretary to the Northern and Southern Provinces
6. The General Manager of the Railways
7. The Director of Public Works, and
8. The Post-master General

The Legislative Council was to make laws, subject to the Governor's veto and reserved powers,

for the Colony of Lagos and the Southern provinces while they were vested with the powers to legislate for the Northern protectorate Governor. Other important provisions of the Clifford's Constitution were:

a) The Governor had powers to veto or give consent to any law passed by the Legislative Council subject to the instruction given to him by the British Government. No law took effect until he or the British Government had assented to it.

b) Unofficial members who were nominated by the Governor were to hold their seats for five years which, subject to approval of the British Government, was renewable for a period not exceeding five years.

c) The Governor was also empowered to suspend any member of the Legislative Council with the approval of the British Government.

d) Members of the Legislative Council could either jointly or severally, propose any Ordinance Bill except such Ordinance on finance which was the prerogative of the Governor.

Criticisms against the Constitution

1. Although the elective principle introduced by the Constitution was commendable, it came under heavy criticisms by the African elites on the basis that it limited the franchise of Africans. According to the Constitution, only the British subjects or protected persons who met the condition of possession of properties and annual gross income of 100 Pound Sterling were qualified to vote, or be voted for (See Tamuno, 1966:33-40). These conditions made it difficult for many Nigerians in Lagos and Calabar to be qualified. The outrageous income was fixed at a time when an average worker earned about 25 pence per day.

2. Another drawback of the Constitution was that the Executive Council was predominantly white officials to the exclusion of Africans. The Council exercised wide powers on policy formulation and implementation with far reaching effects on the lives of Africans.

3. Another defect of the Constitution was that the North was excluded from the purview of the Legislative Council. The Northern provinces were ruled by proclamation as was the case under Lord Lugard. This isolation had 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 the people.

4. Finally, the retention of casting vote and veto power on policy issues by the Governor did not make the new 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.

Merits of the Constitution

1. Perhaps the most striking feature of the 1922 constitution was the introduction of Elective Principle which, for the first time, provided opportunity for Africans to elect their representatives and participate in the Legislative process. This was commendable because it provided an impetus

for the early rise of nationalist movements in Nigeria and also the evolution of political parties in the Country. It was during the period that the first Nigerian National Democratic Party (NNDP) which was led by Herbert Macaulay was formed. Also, the Nigerian Youth Movement and the National Council of Nigerian Citizens were formed. The political parties joined forces with the nationalist movements to give the British Government a stiff opposition.

2. Another important merit of the Constitution was that it encouraged the establishment of newspapers to further the cause of the struggle for decolonization. For instance, Late Samuel Herbert Macaulay founded *The Daily News* in 1925 while Sir Kitoeye Ajasa founded *The Nigerian Pioneer* in 1926. Others were *The Nigerian Daily Times* by Sir Adeyemo Alakija, a Lagos lawyer and the *West African Pilot* by Dr. Nnamdi Azikiwe. The debut of the Newspapers contributed tremendously to the awakening of the political consciousness of Nigerians.

Defects of the Constitution

- i. The continued retention of isolation policy of the Northern provinces retarded the process of political and constitutional developments of the area.
- ii. The elective principle, limited to Lagos and Calabar, disenfranchised many Africans because of the obnoxious qualification requirements attached to it.
- iii. The composition of the Executive Council was predominantly Europeans. Africans were not represented in the Council despite enormous powers it wielded.
- iv. The wide powers given to the Governor by the constitution to veto the laws made by the Council, coupled with the fact that majority of its members were nominated by the Governor made the Legislative Council a caricature of the Lugard's Nigerian Council which was criticized by Clifford.

Major Improvements of the Constitution

The Clifford's Constitution of 1922 recorded the following improvements on that of Lord Lugard's Constitution.

- i) It merged and enlarged the Legislative Councils for better effects.
- ii) For the first time, it introduced elective principles.
- iii) It stimulated the political awareness of more people in the colonial territory.
- iv) It accelerated the evolution of Nationalism and formation of political parties.

Conclusion

Since the revival of the Legislative Council by Sir Hugh Clifford in 1923, efforts were mainly concentrated on linking the native authorities in the South with the Council as the Northern colonial administrative officials were averse to and therefore repulsed any attempt by the Council to interfere with the North (Okafor, 1981:131). The activities of the newly emerged political parties and the nationalist movements precipitated debates on the future of Nigeria. There were agitations for political reforms to give Africans prominent roles to play in their own affairs. Although some provisions of the 1922 Constitution were criticized, it provided some elixir for Africans to take more than passing interests in the colonial administration and policies in their country.

Subsequently, we shall discuss the role of the early nationalists and the political parties in the development of the Nigerian nation. The Clifford's Constitution of 1922 was a watershed in the political and Constitutional development of Nigeria. It brought about the development of early political parties that worked *paripassu* with the Nationalist Movements that fought the colonial government in Africa.

Early Nationalist and Political Movements

Nationalism

What is nationalism? This is somewhat a complex concept to grasp in terms of definition because there is no single factor to which it could be traced. Nationalism is usually a passion for unity, community of tribes, geographical contiguity, religious and cultural affinity and, to crown it all, political and historical aspirations. It is, therefore, a phenomenon derived from the word nation which Price (1967:24) defines as an association of men and women who have or believe that they have the following things in common: common ancestry; common history and tradition; common language, common culture, common religion and shares common boundary. Nationality is another word very close to nationalism but Appadorai (1968:15) defines it as a spiritual sentiment or principle arising from amongst a number of people usually of the same race, resident on the same territory, sharing common language, the same religion, similar history and traditions, common interests, with common political associations and common ideas of political unity

The word nationalism can also be explained within the prism of a State given the symbiotic relationship between the two concepts - nation and State. In fact, the two concepts are often used interchangeably or as a compound word but going by the definition of a State, one would notice certain characteristics of it that cannot be attributed to a nation and vice versa. While it is true that a State is also a territorial association of men and women like a nation, they may not necessarily share common attributes of tribal affinity like a nation.

A State is an association organized for specific purposes with a clearly defined territory and an organized system of government. A nation may or may not have its territory as clearly defined as that of a State. For instance, Yoruba nation has its territory across two modern nation-states i.e. the Federal Republic of Nigeria and Benin Republic. The Hausa-Fulani nation also has its territory cut across many countries in West Africa. Many examples abound, even within the Nigerian States.

This leads us to the myths and conceptual analysis of nationalism. To many people nationalism connotes a tendency of warfare between ethnic groups or as the force that destabilizes multiethnic countries. However, this view is wide off the mark because of the fact that nationalism is a phenomenon that affects people's everyday actions in many positive ways without necessarily making them violent. Another misconception that must be cleared about this concept is that it is something fundamentally different from racism. The basis of nationalism could be influenced by religion, ethnicity, language, race among other factors.

Nationalism in the Twentieth Century could be perceived as the ideological movement for the attainment and maintenance of autonomy, cohesion and individuality for a social group, some of whose members conceive it to be an actual or potential nation. Nielsen (1998:253-95) contends

that the term nationalism has a variety of meanings and encompasses the two phenomena noted as:

i) The attitude that the members of a nation have when they care about their identity as members of that nation, and

ii) The actions that members of a nation take in seeking to achieve (or sustain) some form of political sovereignty.

For our present purpose, let us align with the definition of nationalism in the context of the colonial politics in Nigeria as a policy designed to achieve national self-determination by their removal of alien rule. Although the goal of the early nationalist was initially not for self-determination, it was rather to demand for increased participation in the governmental process on a regional level. It also included a fight against inconsistencies inherent in the British colonial policies which ignited regional animosities by attempting to preserve the indigenous cultures of each area and introduced western political and social concepts all at the same time. This corroborates the opinion of Olawale (1980:45) that Nationalism is an act of political awareness or consciousness of the colonized people with the desire to achieving equal status, equal rights and equal opportunities with their white counterparts.

Emergence of Nationalism in Nigeria

The history of the emergence of early nationalism in Nigeria could be traced to the southern part of the country, spearheaded by those whose thinking was shaped by European ideas, they were also antagonistic to the policy of indirect rule which had entrenched what was considered to be an anachronistic ruling class (traditional chiefs) in power rather than the westernized elites. There were so many sources of the ideological and socio-political inspirations as-well-as economic factors responsible for the southern nationalists. Among the motivators were the prominent American-based activists such as Marcus Garvey and W.E.B. DuBois and Nigerian students who joined those from other colonies in pan-African groups, such as the West African Student Union (WASU) founded in London in 1925 (See Price 1967:24). They were later to become so critical of colonial rule that they started championing the cause for self-government, constitutional and social reforms and eventually, independence. One of the social reforms demanded was the religious racism practiced by the European missionaries and public servants. The whites openly discriminated against Africans from attaining certain status in their churches which led to the emergence of independent African Christian churches at the end of the Nineteenth Century. Also in the civil service, education and business sectors, Africans suffered discriminations from their European counterparts. All these gave impetus to nationalist struggle in Nigeria. In the economic sector, the import and export trades were dominated by European traders and a few commercial firms. According to Ekundayo (1973:216), by 1917 there were 77 European trading firms in Nigeria which included: the United African Company (UAC); Compagnie Francaise del Afrique Occidentale (CFAO); Societé Commerciale del Ouest Africaine (SCOA) and Peterson Zochonis (PZ), etc. These firms came together with other European firms to form a cartel called Association of West African Merchants (AWAM) which was used to control prices of both manufactured goods they sold and the cash crops bought from African farmers. African farmers had no control over the prices of farm implement and other imported goods they bought from the European firms and at the same time, they had no control over the prices of their farm produce like cocoa, cotton, cash crops and others. To worsen the situation was the monopoly enjoyed by the

Lebanese, Syrians and Indians over retail trading because they could easily attract credit facilities from the European firms and loans from their banks. The banks were willing to accept deposits from Africans but when it came to borrowing, they ran into difficulties. The control of the economy was totally in the hands of expatriates, to the detriment of Africans who found it difficult to compete with the Europeans in the import and export business for lack of capital base. Further, the wage employment opportunity was another factor that aided the early nationalism in Nigeria. The civil service, judiciary and the organized private sectors were almost closed against Africans. The few Africans employed suffered discrimination as they were prevented from rising to positions of responsibility to exercise control over expatriates, no matter the level of their education. Africans cannot rise beyond the level of a clerk which explained why early educated Africans took to professions such as Law and Medicine where they can be self-employed.

Early Nationalist Groupings

In the early 1920s, sequel to the Clifford's Constitution, there were several types of non-political associations consisting of professional and businessmen such as the Nigerian Union of Teachers, the Nigerian Law Association, which was later to provide trained leadership for such political groups and the Nigerian Produce Traders Association which was led by Chief Obafemi Awolowo. Also, ethnic and kinship organizations that often took the form of a tribal union were formed in the same period. These organizations were visible mainly in the urban areas and also sprang up as a result of rural-urban drift in search of white-collar job by Africans who felt alienated by the anonymity of the urban environments and were drawn together by ties to their ethnic homelands. By the mid-1940s, the major ethnic groups had formed such associations as the Igbo Federal Union and the Egbe Omo Oduduwa, a Yoruba cultural movement, formed in London by Obafemi Awolowo in 1945 but inaugurated in Ile-Ife, Nigeria in 1948. Another type of organizations that was more politically inclined was the youth or student groups such as the West African Students Union (WASU), the Lagos Youth Movement which became the vehicle of intellectuals and professionals. They were the most politically conscious segment of the population and stood in the vanguard of the nationalist movement. In 1933 Dr. James Churchill Vaughan, Ernest Sisei Ikoli, Samuel Akinsanya (later became Odemo of Isara) were brought into the (LYM) by Eyo Ita and in 1937 the name was changed to Nigeria Youth Movement (NYM) with Barrister Hezekiah Oladipo Davies as the Secretary. Newspapers, some of which were published before World War I, provided coverage of nationalist views. The principal figure in the political activity that ensued was Herbert Macaulay, often referred to as the father of Nigerian nationalism. He aroused political awareness through his newspaper, the *Lagos Daily News*, while leading the Nigerian National Democratic Party (NNDP), which dominated elections in Lagos from its founding in 1922 until the ascendancy of the Nigeria Youth Movement (NYM) in 1938 which first used nationalist rhetoric to agitate for improvements in education. Similarly, Macaulay's political platform called for economic and educational development, Africanization of the civil service, and self-government for Lagos. Significantly, however, Macaulay's NNDP remained almost entirely a Lagos party, popular only in the area with experience in elective politics. In addition, the rapid growth of organized labour in the 1940s also brought new political forces into play in form of labour movements. But the proliferation of labour organizations, however, fragmented the movement, and potential leaders lacked the experience and skill to draw workers together.

The First Political Movement

According to Ojiako (1981:13), on August 26, 1944 the pioneer of militant nationalism in West Africa was born named the National Council of Nigeria and the Cameroons with the major objective to exert heavy pressure for accelerated political development in Nigeria. The following officers were elected at its inaugural meeting held at the Glover Memorial Hall:

- i) President: Herbert Macaulay
- ii) Vice President: J. O. Lucas
- iii) General Secretary: Nnamdi Azikiwe
- iv) Financial Secretary; A.W. Howells
- v) Treasurer: L. P. Ojukwu
- vi) Auditor were Messrs: L. A. Onojobi & A. Ogedegbe
- vii) Legal Advisers were Messrs: E. J. Alex Taylor, J.E.O. David, E.A. Akerele, A. Alakija, Ladipo Odunsi and J. I.C. Taylor.

The Richards' Constitution of 1946

Background to the Constitution

The 1946 Constitution which was named after its author Arthur Richards was enacted by the British government as the Nigeria (Legislative Council) Order in Council in 1946 and came into operation on 1st January, 1947. It was based on the proposals sent on 6th December, 1944 by Sir Arthur Richards (later Lord Milverton) to the British government which was later approved with some amendments. His views as contained in the proposals were greatly influenced by the nationalists' agitations for administrative and constitutional reforms in Nigeria. Earlier, his predecessors Sir Donald Cameron and Sir Bernard Bourdillon were critical of the 1922 Clifford's constitution and saw the need for changes to be brought into the existing system. By 1943 when Sir Arthur Richards became the Governor of Nigeria, there was a growing realization among the official and unofficial opinions that the 1922 Constitutional Order had outgrown its usefulness. Some of the bones of contentions were the use of the traditional rulers to the exclusion of the educated elites in the native administration and the segregation of the north from the rest of the country. The Richards' constitution for the first time, gave Nigerians a majority in both national and regional legislative assemblies. It was also the first time that the North was brought under the same administrative control with the South. The objects of the constitution were, among others: to promote the unity of Nigeria; to provide adequately within that unity for the diverse elements which make up the country; and to secure greater participation by Africans in the discussion of their own affairs. See Awolowo, (1966:4-6).

The main features of the constitution were as follows:

Composition of the Central Legislature

a) The Central Legislature which was unicameral was presided over by the Governor and was made up of the following members:

13 ex-officio members (heads of Ministries)

Three nominated official members

24 nominated unofficial members

Four elected unofficial members (Lagos 3, Calabar 1)

b) Regional Legislature (bi-cameral in the North, unicameral in the West and the East)

Composition of Regional Houses of Assembly

The North

The constitution provided for the North, a House of Assembly and a House of Chiefs. The House of Chiefs was made up of all first class and not less than second class Emirs. The House of Assembly was made up of:

- a) 19 official members
- b) 20 unofficial members (14 were selected by the Native Authorities while 6 were appointed by the Governor to represent special interests)

The West

This region had a unicameral legislature, unlike the North which had a House of Chiefs. The Western House of Assembly was composed of the following:

- a) 14 official members
- b) 15 unofficial members (these included three Chiefs nominated by the Governor; seven members were selected by the Native Authorities while the remaining five members were also nominated by the Governor to represent some special interests).

The East

Like the West, the Eastern Region was also given a unicameral legislature which was made up of the followings:

- a) 14 official members
- b) 15 unofficial members (these included 10 members selected by the Native Authorities and the remaining five members nominated by the Governors to represent special interests)

Generally, the followings were the main functions of the Regional Assemblies:

- i) To serve as the electoral college for the Central Legislature
- ii) To consider a resolution on matters either referred to them by the Governor or introduced by a member
- iii) To deliberate on the annual budget estimates to be placed before them by the Governor

Main Provisions of the 1946 Constitution

1. It divided Nigeria into three regions North, West and East and established legislative councils in each of the regions, thereby allowing the people of each region to develop at their own pace.
2. For the first time, the northern part was brought within the same legislative authority. Before the integration, the Governor was empowered to legislate directly for the people in the Northern Provinces since they were not represented in the preceding Nigerian Legislative Council.
3. It gave powers to the regional assemblies to elect members to the central legislature.
4. It retained the elective principle of the 1922 constitution with the limited franchise to Lagos and Calabar but increased the number of the unofficial members at the Legislative Council.
5. The constitution also retained the veto power for the Governor.

Some Criticisms against the 1946 Constitution

1. The nationalists were not completely happy with Sir Arthur Richards for the manner he introduced the constitution without consulting the Nigerian people for their inputs. Although the draft constitutional proposals were approved by the African unofficial members of the legislative

council, the nationalists contended that they were not the true representative of the people hence, the proposals were passed in utter disregard of the people's opinion. Obafemi Awolowo (1966:7) opined: because he did not consult the people before he introduced his constitution, Sir Arthur Richards came under heavy strictures.

2. Another defect of the constitution was that it 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 nationalists saw as a step towards self-government.

3. The Richards constitution also came under heavy criticism by the nationalists who felt that both the Chiefs and the unofficial members nominated by the Governor were colonial stooges who will always support the government.

4. The retention of the elective principle without increasing the number of Africans to be elected, coupled with the restricted franchise was seen as a calculated attempt by the government to exclude the educated elite who were sufficiently conscious of their rights. Thus, the constitution was regarded as a year of further extension and consolidation of the British Imperial power rather than marking the commencement of imperial withdrawal. See Olawale (1980:59).

Conclusion

Despite the shortcomings of the 1946 constitution, it should be commended for promoting unity in Nigeria by bringing the whole of the country under the same Legislation which was quite a radical departure from the past. The establishment of regional assemblies moved the government closer to the people and served as a leap towards representative government. These new innovations increased the tempo of political activities in Nigeria.

The Macpherson's Constitution of 1951

Introduction

One of the major complaints of the nationalists against the Richards Constitution of 1946 was, among others, that Nigerians were not consulted before the document was imposed on them. Therefore, in introducing his own constitution in 1951, Sir John McPherson who too became the Governor in 1948, meticulously avoided his predecessor's error by giving the people across, all shades of opinion, the opportunity to ventilate their views on the constitution. Therefore, Sir John Macpherson made a history of being the first colonial Governor ever to, allow Africans to have inputs in the document that explained, how they were to be governed.

Evolution of Nigerian Federalism

Before this constitution was promulgated into law, Sir John Macpherson presented its draft and allowed Nigerians to debate it at conferences which took place at every stratum of the society from the Central through to the district and village levels. According to Awolowo (1966:6) the colonial

Governor, through his Chief Secretary, Sir Hugh Foot, framed a number of questions to which people were called upon to apply their minds and give specific answers. The followings were excerpts of the questions:

- Do we wish to see a fully centralized system with all the legislative and executive power concentrated at the centre, or do we wish to develop a federal system under which each different Region of the country would exercise a measure of internal autonomy?
- If we favour a federal system of government, should we retain the existing Regions with some modifications of existing regional boundaries, or should we form Regions on some new basis, such as the many linguistic groups which exist in Nigeria?
- What changes should be made in the composition of the Regional Legislative Houses and Legislative Councils? Should the number of unofficial members be increased? Should the system of nominated members be retained?
- What functions and powers should be reserved to the Central Legislative Council in order to achieve the overriding objective of maintaining and strengthening the unity of Nigeria?
- Should the system to be introduced in all these matters and necessarily be the same in each Region, or should each Region be given freedom to decide on modifications to suit its own peculiar circumstances and needs?

At the end of the conferences, the followings were the general consensus from each of the regions. (See Olusanya; 1973:130-32):

Regional Recommendations

1. Northern Region

- A federal system
- A central Legislature
- Regional Legislature to legislate on specific subjects and others as may be vested by the Central legislature.

2. Western Region

- A federal system whose component units would be formed on ethnic and linguistic basis
- A federal parliament
- Regional parliament competent to legislate on all residual matters not specifically included in the legislative powers of the central parliament.

3. Eastern Region

- A federal system
- A central legislature
- Regional legislature that can legislate only on matters as the central legislature may delegate to them.

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4. The Lagos Colony

According to Awolowo (1966:7), the recommendations of the Lagos Colony conference were substantially in the same terms as those of the Western Regional Conferences. In response to the public opinion, Sir John Macpherson's constitution substantially reflected some of the views expressed at the conferences and contained in the recommendations submitted by each region.

Main Provisions of the Constitution

- a) It introduced a federal system in which the constitutional powers were divided between the central and the regional legislatures with the proviso that in the event of a clash under the concurrent legislative matters, the regional laws were voided to the extent of its inconsistency with that of the central legislature.
- b) The Governor had the reserved powers to refuse assent to any bill passed by the central legislature or to enact into law, bills rejected by the parliament.
- c) Flexible electoral laws at the central, regional and provincial levels.
- d) The number of the elected Nigerians into the legislative councils both at the central and regional levels was increased.
- e) The Governor was empowered to stop or propose amendment to any regional bill considered to be in conflict with the national interest.
- f) It maintained the three regional structures-North, East and West with Legislative and Executive Councils established in each. Both the North and the West had a bi-camera Legislature each while the East had a single-chamber Legislature.

Composition of the Regional Assemblies

The Northern Region

- i) House of Assembly
 - President appointed by the Lieutenant-Governor
 - Official members 4
 - Special members 10
 - Elected members 90
- ii) House of Chiefs
 - Governor as President
 - All first-class Emirs
 - Other Chiefs 37
 - Official member 3
 - Adviser on Moslem Law 1

The Western Region

- i) House of Assembly
 - Governor as the President
 - Official members 4
 - Special members 3

- Elected members 80
- ii) House of Chiefs
 - Lieutenant-Governor as President
 - All first and second class Obas 50
 - Official members 3
 - Special members 3

The Eastern Region

- i) House of Assembly
 - Lieutenant-Governor as President
 - Official members 5
 - Special members 3
 - Elected members 80

Merits of the Constitution

- 1.This was the first constitution ever to be drawn with the full participation or consultation of Nigerians which was seen as an improvement on the previous exercises.
2. The constitution was also the first to introduce quasi-federalism in Nigeria and also to introduce Ministerial positions for Nigerians.
3. It was commendable because it introduced a Revenue Allocation formula based on the principles of Derivation, Needs and National Interest.

Defects of the Constitution

- 1.The constitution was condemned by the nationalists because it was only the government proposals that were eventually considered at the final stage.
2. In the same vein, the composition of committee was designed to suit the imperialist interests, giving the Constitution review more preference to the native Chiefs who had been serving the colonial interests.
- 3.The constitution was also criticized for not providing for the position of Prime minister and Premier at the Central and Regional levels of government, which would have given the government a semblance of responsible leadership.
- 4.The ministers were not in charge of given departments or a ministry that is, they were ministers without portfolios.

Conclusion

The introduction of enlarged membership at the Central and Regional levels by the 1951 constitution provided the opportunities for the formation of political parties that contested elections into the Regional Assemblies. While the Chief Obafemi Awolowo-led Action Group (AG) controlled the West, the Sir Ahmadu Bello-led Northern Peoples' Congress (NPC) controlled the North, the Dr. Nnamdi Azikiwe-led National Council and Nigerian Citizens (NCNC) controlled

the East. The subsequent political intrigues led to the breakdown of the Constitution and gave way to another one in 1954.

Oliver Lyttleton Constitution of 1954

Introduction

After about two years, it became obvious that the Macpherson's Constitution had become unworkable because what the system introduced fell short of what Nigerians desired. In the opinion of Obafemi Awolowo (1966), the Federation which existed under the Macpherson's Constitution was a very tight one. In the opinion of Awolowo (1966:11), it proved unbearably restrictive and obstructive in operation. The document contained some provisions that were patently contradictory to the principles and norms of federalism. This and some other factors such as: intra-party crisis, mutual suspicion by major ethnic groups, the Kano riots of May 1953 and the issue of self-government in 1956 precipitated the total breakdown of the Constitution in 1953. Against this background, series of Constitutional conferences were organised and held between 1953 and 1958 to address the Constitutional crisis the outcomes of which culminated in the Lyttleton's Constitution of 1954 and the Independence Constitution of 1960.

Constitutional Conferences

Constitutional conferences which agreed on a number of issues were held in London and Lagos as a means of involving Nigerians in the making of the new constitution.

London Conference of 1953

This constitutional conference was held in London under the chairmanship of Oliver Lyttleton, the Secretary of State for the Colonies between July 30 and August 22, 1953. It was attended by nineteen delegates who consisted of six from each of the three regions and one from the Southern Cameroons. Some of the important issues discussed were:

- i) The shortcomings of the 1951 Constitution
- ii) The motion for self-government in 1956
- iii) How to implement the changes

Decisions of the Conference

- That the regions should be truly autonomous from the central government in respect of subjects under the residual powers
- That Lagos should become excised from the Western region to become a federal territory
- That the official designation of the Lieutenant-Governor should be substituted for Governors in the regions while the Governor of Nigeria should be designated Governor-General.
- That there should be power sharing between the central and the regional governments.
- That self-government should be granted by Her Majesty to regions that desired it.

Lagos Conference of 1954

This was a follow up to the London Constitutional conference to finish the unfinished matters and was also to consider the advice of Sir Louis Chick, the Fiscal Commissioner appointed at the London conference. The conference agreed in principle with his recommendations on the

allocation of resources between the Federal and regional governments and also settled on the following issues:

- That the police and public service be regionalized.
- That the Southern Cameroons become autonomous.
- That the judiciary should be regionalized.

Main Features of the 1954 Constitution

Since the making of this Constitution was preceded by series of conferences as enunciated above, little wonder then that its provisions were based on the issues agreed upon at the conferences. The constitution, among others, established a Central Legislative Council and Regional Assemblies in which both the Governor-General and Regional Governors ceased to be members respectively. The Legislative Council at each level was composed of the followings:

Central Legislature

- A Speaker
- Ex-officio members 3
- Elected members represented as follows: -
 - The Northern Region 92
 - The Western Region 42
 - The Eastern Region 42
 - The Southern Cameroons 6
 - The Lagos Colony 2

Composition of the Regional Legislature

- i) The Western Region (Bicameral)
 - Speakers appointed by each of the Houses
 - Elected members 80
 - Members representing special interests 5
- ii) The Northern Region (Bicameral)
 - Speaker for the Assembly appointed by the Governor
 - The House of Chiefs was presided over by the Governor
 - Elected members 131
 - Members representing special interests 5
- iii) The Eastern Region (Unicameral)
 - A Speaker appointed by the Governor
 - No Official or special members allowed -
 - Elected members 84

Other Important Provisions of the Constitution

- i) A Federal Supreme Court was established for the centre to replace the West African Court of Appeal while a High Court of Lagos and a High Court of the Regions, as well as that of the Southern Cameroons were also created.
- ii) It provided for the position of the Prime Minister at the centre and Premiers for the regions.

iii) The regions were made independent of the centre in that it transferred all the legislative and executive powers to the regions with some exclusively reserved for the centre.

iv) The Lagos Colony became a Federal Territory having been excised from the Western Region.

v) It regionalized both the public service and the judiciary

vi) A unicameral Legislature for the centre.

vii) Under the fiscal allocation, half of the proceeds from export duties and revenues from mineral resources were to be retained by the regions, thus emphasizing the derivation principle.

Merits of the Constitution

1. For the first time, the Constitution laid a foundation for a federal structure for Nigeria by providing for a clear division of both legislative and executive powers between the Central and the Regional governments.

2. It also paved the way for self-government which was later achieved by the Western and Eastern regions in 1957 while the Northern region attained the status in 1959.

3. The Constitution provided for direct elections to both the federal and regional legislatures unlike the previous Electoral College system.

4. The constitution also provided for appointment as ministers with portfolio for Nigerians, thereby giving Nigerians both authority and responsibility for the first time.

Its Shortcomings

However, the constitution had its own defects some of which were:

1. Its failure to provide for the second legislative chamber at the centre to guide against any possible tyrannical tendencies by a single-chamber legislature and also to ensure a balanced representation by Nigerians.

2. The appointment of the ministers which was based on the regional-based political parties made their allegiance and loyalty tilted toward their regions rather than to the entire nation.

3. Although, the Governor-General and Regional Governors were exempted from the legislature, they still held most of their traditional powers enjoyed under the 1954 constitution. For example, the approval of the Governor-General or the Governors must be obtained before any budget estimate could be laid before any of the legislature. They were also empowered to veto any legislation by withholding their assent.

Conclusion

This constitution marked the end of the era of pre-independence constitution-making in Nigeria. The main provisions of the colonial constitution were very much similar albeit, with some modifications to satisfy the curiosity of the nationalist leaders. In general, the constitutions were meant to serve as instrument of authority for colonial administrative policies in Nigeria.

The Independence Constitution of 1960

Introduction

This constitution marked the beginning of the post-independence era of constitution-making, a period between independence and the First Republic in Nigeria. The 1960 constitution contained most of the issues settled at the 1957 and 1958 constitutional conferences specifically organized to remedy some of the weaknesses inherent in the Lyttleton's 1954 Constitution and also, the issue of independence for Nigeria.

The 1957/1958 Constitutional Conference

Main Focus of the Conference

One of the major factors that accentuated the agitations for self-government and early independence for Nigeria was the fact that Ghana was granted political independence and became a sovereign nation in March 1957. Therefore, in May 1957 the Nigerian Constitutional conference took place in London under the Chairmanship of Mr. Allan-Lennox Boyd, the Colonial Secretary with delegates from the regional governments and a cream of political leaders were also in attendance. The following were some of the major issues addressed:

- The question of independence for Nigeria
- The regional self-government
- The minority questions
- Granting additional responsibility to the political leadership
- Power sharing between the Federal and Regional governments.

The 1957 Conferences Major Resolutions

- Sir Henry Willinks was appointed to head a commission to look into the ways of allaying the fears of the minority ethnic groups who had been agitating for separate region in Nigeria.
- The political leaders, for the first time, unanimously agreed on October 1, 1960 as the date for Nigeria's independence.
- Lagos to remain excised from the Western region and to be the federal territory.
- Unified electoral system based on universal adult suffrage was to be adopted in the regions except for the North where it was to be restricted to adult male.
- The West and the East were to be granted the status of self-government on 8th August, 1957 while the North was to attain the status in 1959.

- It recommended a bi-cameral legislature for Nigeria: a Senate and a House of Representatives.
- The position of Prime Minister and Premier were recommended for the central and regional governments respectively.

- The police should be centrally controlled even as the conference recognized its dual responsibility to both the Federal and the Regional governments.

- It was recommended that the fundamental human rights should be entrenched in the 1960 Constitution to protect the liberties of the minority groups.

- In the same vein, it was also recommended that the non-Moslems minorities in the Northern Nigeria should be given the option to have their litigations heard by non-Moslem Courts.

The 1958 Conference Major Resolutions

This conference was attended by various categories of delegates from Nigeria and it was aimed at clearing some grey areas contained in the recommendations by the 1957 London conference. It lasted between September 29 and October 27, 1958. See Ojiako (1981:53). Some of the followings were the major issues around which its recommendations were centred:

- The minority groups problems
- Northern regional self-government
- Date of Independence
- The control of the police and the prisons
- Revenue generation/sharing arrangement
- The position of the Southern Cameroons at independence.

Major Provisions of the 1960 Constitution

1. It provided for a Cabinet, Westminster or Parliamentary system of government in which there was a Governor-General (representing the Queen of England) and a Prime Minister as head of government. Under the system, Dr. Nnamdi Azikiwe was the Governor-General, a ceremonial head while Sir Abubakar Tafawa Balewa, the Prime Minister exercised the Executive powers in the day-to-day running of the government. The one (Governor-General) was a dignified or ceremonial head of state while the other (Prime Minister) was the effective head of government. Other essential features of the government were:

- Fusion of powers: members of the Executive were also members of the Parliament.
- Collective responsibility members of the Executive were collectively responsible to the Parliament in which case, no Minister of Cabinet rank should criticize the government in public otherwise the government will collapse.
- Vote of No Confidence: once the Parliament passes a vote of no confidence on the Prime Minister the government stands dissolved.
- The status of the Prime Minister: he was invited by the Head of State being the leader of the party

with majority in the Parliament to form the government. Therefore, he was *primus inter pares* (first among equals).

2. It established a federal parliament which was made up of two chambers: a Senate and a House of Representatives. The Senate was composed of 44 members, in which the three regions were represented by 12 selected members. The Federal Territory of Lagos had 4 members while 4 members were selected by the Governor-General in consultation with the Prime Minister. The House of Representatives, on the other hand, was comprised of 320 popularly elected members from various constituencies across the federation.

3. The 1960 Constitution divided powers between the Federal and Regional governments into Exclusive, Concurrent and Residual Legislative Lists. It gave only the Federal government the powers to legislate on any subjects under the Exclusive List such as Defence, External Affairs, Customs and Immigration, Currency, Citizenship, Airway, Railways, etc. The Regions were empowered to legislate on any subjects under the Residual List which were matters not listed under the Exclusive or Concurrent Lists while both the Federal and the Regions were to legislate on any subjects under the Concurrent Legislative List which included Education, Judiciary, Agriculture, Industrial development, Census, Taxation, Elections, etc.

4. The Independence Constitution of 1960 enshrined in details, the Fundamental Human Rights as a measure to allay the fears of the minority groups and also to guarantee the liberties of the Nigerian citizens. It included: Rights to freedom of speech; Freedom of association and movement; Freedom from discriminatory treatment on account of sex, religion, tribe or language; Freedom of worship; Freedom of expression; Freedom to privacy and life, etc.

5. The Constitution provided for emergency powers given to the Prime Minister with the approval of the Federal parliament to declare a state of emergency for the purpose of maintaining peace, order and good government. It defined the emergency period as a situation when:

a) The federation of Nigeria was at war

b) There was total breakdown of law and order in any part thereof.

c) There was a resolution passed by two-thirds (2/3) majority members of the parliament declaring that democratic institutions were being threatened by subversive elements in the country.

6. In order to ensure the independence of Judiciary, the 1960 Constitution established a National Judicial Service Commission with the powers to recommend for appointment, Justices of the Supreme Court and High Court Judges. The salaries and allowances of the judicial officers were charged on the Consolidated Fund, which meant that government was no longer in a position to control them through salaries. Other provisions in this regard were:

- Justices or Judges could no longer be easily removed by the government. Their removal was made a complicated Constitutional matter.

- The Federal Supreme Court was vested with the power of Judicial review to declare the action of either the Federal or Regional government illegal, null and void if such violated the Constitution.

- The Judiciary became decentralized under the 1960 Constitution, whereby the regions had the power over the regional Courts while the Supreme Court and the Court of Appeal were under the Federal control.

7. Another important feature of the independence Constitution was the provision for its amendment, the procedure of which was made cumbersome to protect the federal union. The motion for amendment must receive a two-thirds majority votes in the federal parliament in concurrence with a two-thirds votes in at least, two-thirds of the regions.

Major Changes in the Constitution

The 1960 independence Constitution introduced quite a number of major improvements over the previous exercise in the Nigerian constitutional development. Apart from the fact that its making was left entirely in the hands of Nigerians, it went further to entrench the federal system of government in Nigeria. Some of the major changes introduced were:

- For the first time in Nigerian political history, there was bicameral legislature whereby there were Houses of Assembly and Houses of Chiefs in each of the regions (especially in the Eastern region where there was no traditional institution) in the country. This was aimed at making the federal structure more meaningful in the post-colonial Nigeria. It was also necessary to make representation more equitable both at regional and federal level.

- Another significant improvement was the unified electoral system which brought the whole country together under the same electoral laws. Hitherto, the principle of universal adult suffrage was alien in the Nigerian electoral system, especially in the Northern part where women were not allowed to vote or be voted for.

Conclusion

The 1960 Constitution made a tremendous improvement on the previous exercises in Nigeria. The electoral commission, judicial service commission and public service commissions were given some degree of autonomy from the federal executive in order to allow for fairness in their discharge of duties and also to ensure job security for the officers.

The Republican Constitution of 1963

Introduction

Save for some of the defects of the Independence Constitution, one of the other contributing factors for the clamour for a change of the Constitution was the fact that Nigeria, at independence, inherited a weak and unprepared leadership, lacking in national consciousness and constituency due to lack of enough period for Nigerians in the management of their own affairs before granting of independence. There were a number of issues left unresolved by the British government before they left. According to Ojo (1985:12). it must be admitted that the British Government by sheer abdication of responsibility left some explosive issues for Nigerians to solve at Independence. Therefore, Nigeria inherited a weak socio-political structure, a defective and unbalanced

federation, an intensification of ethnic consciousness and rivalries, a subverted indigenous ethos of government and culture, and above all, an inexperienced leadership (Ojo, 1985:12) When discussing the leadership problem in Nigeria, Eleazu (1977:245), is of the view that most people taking a cue from their leaders, their leaders did not develop

a commitment to the ideal of national unity. The values and symbols that loomed large in their political imagery were those of sectionalism and sub-national centres of power. Hence, any group that felt aggrieved immediately sought its own centre of power a state within which it could protect what it has as unique to itself.

The Prelude

In the second quarter of 1963, there was an All-Party summit where the issue of redefining the status of Nigeria from monarchy to republican as was clearly manifested in the British Act of parliament which served as the source of the legislative powers of the independent Nigeria was discussed. The All-Party conference was preceded by the meeting of the Prime Minister and the regional Premiers for the same purpose. Consequently, the Constitution witnessed some changes that led to the severance of the last vestiges of colonialism in Nigeria which enjoyed general acceptability by Nigerians. According to Obafemi Awolowo (1966:14): As for the 1963 Republican Constitution, it is on record that, save for the provisions relating to the Judicial Service Commission, the Privy Council and the office of the Director of Public Prosecutions, it was jubilantly and eulogistically hailed by practically all sections of our community.

Main Features of 1963 Constitution

The most striking feature of the Republican Constitution of 1963 was the removal of the imperial basis upon which the 1960 Constitution was defined in the Act of the British Parliament. This element was removed and substituted for the Federal Act of the Nigerian Parliament 1963, thereby granting full autonomy to the Nigerian Parliament. Under the Constitution, the Queen of England ceased to be Nigeria's Head of State while the position of the Governor-General was replaced with the President who became the repository of the federal executive powers. Governors were vested with similar authority at the regional levels, although, this arrangement was just in theory since the real executive powers were exercised by the Prime Minister and his cabinet ministers. The President was to remain in office for a period of five years (See Sec. 36:1, 1963 Constitution) but the document was silent on the number of times he was eligible to contest. He was the Ceremonial Head of State and Commander-in Chief of the Armed Forces (See Sec.34, 1963 Constitution). The President could be removed from office if found guilty of misconduct or was unable to perform his duties (See Sec. 10, 1963 Constitution). He was to perform the following functions, among others:

- i) To invite the leader of the majority party in the Parliament to form the government
- ii) To convene or prorogue the Parliament when its tenure is expired or after fresh elections, as the case may be
- iii) To receive letter of credence from foreign ambassadors
- iv) To dissolve the Parliament if a vote of no confidence was passed on the government. By convention, the Prime Minister was expected to resign

- v) He must assent his signature to bills passed by the Parliament to become laws
- vi) To declare a state of emergency in accordance with the provisions of the Constitution.

Another landmark in the Republican Constitution was the regionalization of the judiciary with the Supreme Court of the Federation as the highest appellate Court of the land instead of the Privy Council in London. The Constitution gave the President the power to appoint the Justices of the Supreme Court and the Judges of the Federal High Court on the advice of the Prime Minister. In the 1963 Constitution, both the Senate and the Federal House of Representatives were jointly responsible for the selection and the removal of the President in consonance with the laid down procedure in the document. In 1963, Dr. Nnamdi Azikiwe was elected by secret ballot at a joint session of the Parliament. Other important functions of the Parliament (especially the House of Representatives) were to:

- i) make laws for the whole country;
- ii) control public fund;
- iii) approve budget and ratify important appointments; and
- iv) act as checks on the other two important organs of government – Executive and the Judiciary.

The Republican Constitution provided for the Police Force for the Federation and also for local authority Police in the regions. The Inspector-General was the head of the Federal Police while a regional Commissioner of Police who was subordinate to the Inspector-General controlled the local authority Police. Like the 1960 Constitution, the Republican Constitutional so divided powers between the Federal, Regional and Local governments. The Exclusive Legislative List contained subject upon which only the Federal government can legislate. Both the Federal and the Regional governments legislated on items under the Concurrent Legislative List while the Residual List was left for the regional government. Finally, the Republican Constitution, 1963 also enshrined the Article of Fundamental Human Rights following the 1948 Universal Declaration of Human Rights and the European Convention on Human Rights, 1950. Perhaps the most striking point in the Constitution was the provision for the process for State creation which gave birth to the creation of the Mid-West region in 1963, the only State to be created so far by the civilian government in Nigeria.

Some Defects of the 1963 Constitution

1. Dual Heads

The Republican Constitution threw away the imperial status of Nigeria but retained the imperial Constitutional Monarchical system of government which provided for two people efficient and dignified heads to lead a government. The system may work well for the British people who practised a unitary system but it stood to reason why the system was adopted for a large, multi-ethnic and diverse country like Nigeria. The system gave room for confusion in the decision-making process where the two heads belonged to different political parties, different ethnic groups and different religious background.

2. Collective Responsibility to the Parliament

The principle of collective responsibility which underscored the supremacy of the Parliament to the President, the Prime Minister and the cabinet Ministers was a contradiction in Nigeria where the regions were autonomous of the central authority, more so, when the authority of the Parliament could be challenged at the law Courts. In addition, the Senate under the Republican Constitution cannot function as expected in a federal set up because its powers were limited by the Constitution. Thus, the doctrine of checks and balances that was the hallmark of government became a lack lustre.

3. Judicial Independence

This concept was undermined by the Republican Constitution which placed the appointments, promotions and discipline of Judges under the control of the Prime Minister who was to advise the President on such issues instead of creating an independent Judicial Service Commission.