



Constitutional development in Nigeria

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Abstract

Nigeria is one of the prominent countries falling under West Africa. Nigeria is at present is having largest population in Africa and is known to be sixth largest country in the world. It is comprising of 36 states with Federal Capital Territory Abuja. On 1st October 1960, Nigeria was declared as an independent sovereign State. Since the time of independence, Nigeria has faced several challenges like Ethnic conflict, Civil wars, military coups and scrapping of constitution. It had to formulate constitution in 1963, 1979, 1983 and 1999, Frequent breakdown of civil rule has prevailed in Nigeria and many a times military coups were witnessed in Nigeria. Since 1999, Nigeria is treading on the path of democracy but at the same time several challenges still remain in the country that has lot of potential nevertheless has plenty of problems at hand.

Keywords: Constitution, Civil war, Military Coup, Decree, Constitutional laws.

Introduction

Nigeria gained independence on 1st Oct, 1960 from the British rule and since then has made several efforts to tread on the democratic path but at the same time has faced several challenges since then. If we look at this journey, one finds that this journey has been full of potholes and has destabilize the democracy of Nigeria. Though, Nigeria was already granted independence beginning from 1st Oct, 1960. It was witnessed that Queen of England had remained as the ceremonial head of the state of Nigeria form Oct 1960 - Oct, 1963. The British system of governance had provisions like Firstly, the sovereignty of Nigeria was to be divided between regional and a federal government. Secondly, the British Queen being an absent sovereign was to be represented by the Governor General at the center and by the Governor in the various regions. Thus, the British Queen had vested constitutional powers with respect to law making were directly on the Governor General and the Governors. Thirdly, the British Queen was vested with executive authority of the country alone as the Head of the state. Thus, in Nigeria the government along with its institutions belonged to her majesty and functions were carried out in her name.

In 1963, there was a feeling of dissatisfaction among Nigerians who began to complain that having a head of the country who was of British descent and stays about 3000 miles away from their territory. It was sought that Nigerians must have an indigenous head of the state one who is elected by the people and serve for a five-year term. Decision was also taken that such a person would be acting as a titular head of the state. He shall not rule the nation directly but his name shall be used by the ministers for the purpose of executing governmental functions. The 1963 Constitution of Nigeria paved the way to adopt west minister system one which had been in effect even prior to independence of the country.

In 1964, first general elections were conducted in Nigeria. These elections were contested between the major political parties namely, the Nigerian National Alliance and the United Progressive Grand Alliance but could not get the desired result rather led to the constitutional crisis and ended

up with the decisions to hold fresh elections in the Eastern Region in which they were boycotted and a regional election in the west to enable the Yoruba people to decide for themselves who they wanted as their governor and which party they wanted to rule them in 1965. Sir Abubakar Tafewa Balewa was later re-appointed Prime Minister as Deputy leader of the Nigerian National Alliance which was said to have won the election at the center.

The Eastern Regional elections conducted in 1965, the result of the federal elections including the ones conducted in 1964 stood at Nigerian People Congress securing 163 seats, 84seats to National Council of Nigerian Citizens, 36 seats to Nigerian National Democratic Party, 21 seats to Action Group and 4 seats to Northern Elements Progressive Union. These elections created crisis in the country. These elections featured unprecedented rigging and rioting. On 15th January, 1966 Nigerian its deadliest coup in which personalities like Abubakar Tawafa (Nigeria's first prime minister), Sir Ahmadu Nello and Chief Ladaka lost their lives. The violence continued till the military coup which enthroned the military ruler in the country on 15 January, 1966 that lasted till September, 1979.

In between this period of Military rule several coups occurred in the country. A civil war broke in Biafra region of Nigeria still efforts continued to produce a new constitution under the control of General Aguiyi-Ironsi. He promised the country a new constitution once normalcy returned to Nigeria. He established a Constitution Review Commission but his government was soon overthrown in a counter coup. Col. Gowon, the new Head of state pledged in April, 1967 formulated a roadmap that led to the creation of a new constitution but this pledge could not be met due to the civil war. After the war, General Gowon renewed his pledge on October 1, 1970 and established a nine-point program that was to led to a constitutional government by 1976 but his government reneged on this pledge in 1974 saying that civil rule in 1976 was no longer realistic. This break of promise contributed to his overthrow in 1975 by a military team led by Major General Murtala Mohammad, who later began the transition to civil rule process through a drafting committee.

1979 Constitution and it's features.

The New Drafting Committee began its meeting on 18 October 1975 at the National Institute of International Affairs, Lagos and submitted its report in two volumes in September, 1976 but General Mohammed was killed in the coup attempted which was led by Col. Bukar S Dinka on 13 February, 1976. The Assembly was charged with the additional duty of receiving and collating public comments on the Drafting Committee which was widely debated after being launched. This Assembly then submitted it's revised report on the Constitution to the government on 29 Aug 1978 and thereafter was dissolved on 20 September, 1978. This draft brought no fundamental changes put forth by Constituent Assembly. On September 12, 1975 the government ended this ban on open politics much to the relief of politicians. Members of the Federal Electoral Commission were appointed to register political parties and conduct the 1979 elections. The Constitution of 1979 was the first to be prepared by Nigerians taking several objectives in sight. Mainly two objectives were put forth. Firstly, the new Constitution did away with the Cabinet system of government and introduced an Executive Presidential system. Secondly, the Constitution included fundamental aims and directives of the State polity and separation of powers. This Constitution introduced Executive Presidency, that led to being Head of State was to be also the head of the government and would also be armed Commander in chief. This office, real powers and functions were stipulated in Section 5 where in Articles 122-139. The cabinet comprised of the Cabinet included advising the President, coordinating the activities of the Ministries and formulating policies among others.

1989 Constitution and it's features

In Nigeria, A constitution review committee was formed to review the constitution of 1979 and to iron out the anomalies that were found in the Constitution of 1979. It was felt that the country needed a new constitution and as a result of which Constituent Assembly was inaugurated on May 11, 1988 by General Ibrahim Babangida at Abuja with swearing in of 517 members in May 1988. The enabling Decree, Constituent Assembly Decree no. 14 of 1988 promulgated on April 20, 1988 to set up the Constituent Assembly that had indicated the assembly's assignment. However, General Babangida used this Occasion for the inauguration to reiterate not only the importance of a national assignment of fashioning out a national constitution for the country but also the areas the assembly needed. He had emphatically told the Assembly in the meeting that, "it was resolved not to call the documents a Draft Constitution but the report of the Constituent Assembly". Major provisions of this constitution were introduced by General Babangida with the launch of Structural adjustment Program, and also started the transition to civil rule that led to the formation of Constitutional government in the year 1983. 1989 Constitution which would have taken effect from 1993 was prepared first by a Constitution Review Committee of nominated members. It was then deliberated upon by Constituent Assembly that consisted of partly elected and partly members who were nominated. The people were not consulted just like in the 1979 process and lie in most colonial day constitution. Thus, the problems of inadequate or lack of consultation as well as the making of

constitutions but solely elected bodies persisted. Finally, the whole process of making of the 1989 Constitution showed that the problems of Constitution making which have been going on since the colonial times remained especially the problem of non-consultation and the use of unelected bodies. The Constitutional contents in the post-independence era have been as problematic as in the colonial past. Again the entry of the military on the political scene added to the problems of constitutional government and increased the rate of changing or reviewing the constitution in the country.

1999 Constitution and it's features.

At present, Nigerian Government is working on the basis of 1999 Constitution which is composed of 320 articles and 7 schedules as well as one preamble. Nigeria at present is governed as per the provision of the constitution. In 1995 outgoing military head of the Nigeria, General Abdulsalam Abubakar, promulgated a Decree recognizing the new body of laws as the country's supreme document. The new constitution is based essentially on the report of the new committee, which had collated by the views expressed by Nigeria's draft Constitution. Although the military government provisional ruling council amended the report, nevertheless it can be stated that the 1999 Constitution in many aspect similar to existing 1979 constitution. The Constitution of Nigeria states that Nigeria is indivisible and also an indissoluble sovereign state. Constitution provides a Presidential form of government where there is a separation of powers between, legislature, executive and judiciary with each acting as a check and balance on others.

Concludingly, one can say that the ruinous implications and contradictions contained in proposals for the constitutional development in Nigeria that seem to underscore the wisdom of maintaining the country as a unified federal entity. Moreover, as the deluge of exciting and potentially rewarding ideas for reforming Nigerian federation that indicates the current political problems of the country are insurmountable. Indeed, a crucial feature of federalism as a structural-political device is the enormous opportunity it provides for "Politics of Innovation" or creative elaboration and adaptation of institutional solutions to societal problems. The challenge for the contemporary Nigerian political leadership and intelligentsia is to muster or foster the moral discipline, historical sensitivity, intellectual imagination and political consensus that will be necessary for the elaboration and consummation of a comprehensive program of federal reforms. At present, Nigerian President Bola Ahmed Tinubu who assumed office on 29 May, 2023 is working on solving problems of Nigeria. His introduction of Public infrastructure through Buhari Program His government is emphasizing on reducing corporate tax seeking a revival of foreign investment in the country

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