

## Historical Discourse on Nigerian Independence Constitution of 1960

Iyanda Kamoru Ahmed<sup>1\*</sup>, Aisha Ibrahim Ningin<sup>2</sup>

### Abstract

*This paper discusses Nigerian independence constitution of 1960. In 1912, Sir Fredrick Lugard who had left Northern Nigeria in 1907 to take up the governorship of Hong Kong returned to Nigeria. He was set the task of joining together the southern and northern parts of Nigeria. The year 1914 marked a watershed in the Constitutional history of Nigeria. That was the year of colony and protectorate of solution Nigeria and the protectorate of Northern Nigeria were amalgamated into one country effective January 1<sup>st</sup> 1914. Following the amalgamation, the Sir Frederick Lugard Constitutional 1914 established the Nigeria Council. This was to ensure a proper co-ordination of administration between Northern and Southern Nigeria in the true spirit of amalgamation.*

**Keywords:** Constitutional History of Nigeria, Colony, Protectorate, Amalgamation and Independence Constitution of 1960

### INTRODUCTION

Historically, with the responsible government brought in by Lord Lugard, the Nationalists in Nigeria felt that the British were going to leave the country after all. Hence, the new kind and tempo of political activity in the country commenced. This led to the introduction of six (6) Constitutions in Nigeria, namely:

1. Sir Frederick Lugard Constitutions 1914
2. Sir Arthur Richard Constitution 1922
3. Sir Hugh Clifford Constitution 1946
4. Sir John Macpherson Constitution 1951
5. Sir Oliver Littleton Constitution 1954: and
6. 1960 Independence Constitution

The pre-independence Constitutions are also classified as Colonial Constitution because they were bequeathed to Nigeria by The British Colonial Administration. The six Nigerian Constitution made

between 1914-1960 were made under British Colonial rule, whereas Nigerian Constitution from 1963 to the extant 1999 Constitutions were made after Nigeria became independent. From 1979-1993 and from 1999 to date Nigeria practicing presidential democracy based on the U.S. model. The main thrust of this chapter is to examine the characteristic features of the 1960 Nigerian Constitution which was the organic law which heralded the attainment of Nigeria's political independence on the 1<sup>st</sup> October, 1960 [1-5]. Thus it was on that date that the Federation of Nigeria which comprised of a centre and 3 regions was

#### \*Author for Correspondence

Iyanda Kamoru Ahmed  
E-mail: [ogiyanhistonet@gmail.com](mailto:ogiyanhistonet@gmail.com)

<sup>1,2</sup>PhD, Senior Lecturer, Department of History and International Studies, Federal University Gashua Yobe State, Nigeria

Received Date: June 13, 2022  
Accepted Date: June 28, 2022  
Published Date: July 25, 2022

**Citation:** Iyanda Kamoru Ahmed, Aisha Ibrahim Ningin. Historical Discourse on Nigerian Independence Constitution of 1960. Journal of Constitutional Law and Jurisprudence. 2022; 5(1): 45-48p.

granted independence within the Commonwealth of Nations by Britain. The Union Jack (British Flag), which used to flutter about in the sky, was hurled down, and the Nigerian green white green flag made its debut. It was hoisted and took its rightful place alone on the flag staff fluttering independently in the sky. The Nigerian Federation was from inception an unusual one which had within it three quasi-autonomous regions inhabited by plurality of races and ethnic groups. Furthermore, the Northern Region was politically itself an empire, being double the size of the Western and Eastern Regions. With the unusual nature of the shape and composition of the federation, Nigeria was given by skeptics a span of five years within which to remain as a Federal State of some sort, and beyond which it could not survive.

Each Region was granted a separate Constitution quite was a Parliament of the Federation consisting of:

1. The Governor General
2. A Senate and
3. A House of Representatives.

### **The Making of the 1960 Constitution**

This Constitution which still had the trappings of a colonial document, was promulgated via the Nigerian Constitution Order—in—Council of 1960 by Her Majesty, the Queen of England by virtue and in the exercise of the powers granted her in that behalf of the Foreign Jurisdictions Act of 1890 [6].

By that Act made by the out-going Colonial Government, the country acquired political freedom as a self-governing nation; it was bequeathed the parliamentary system of Government of the British pattern. But with a difference. While the Great Britain has no written Constitution and thus basing Nigeria was left with a written Constitution which was supreme and upon which our Government was organized and run. It is worthy of note here that as a prelude to the Independence Constitution of 1960, a number of Constitutional Conferences were held in London in 1957 and 1958 between representatives of the major political parties and the British Government.<sup>9</sup> Although, some Nigerians attended the meetings/conferences which resulted in the enactment of the Constitution at different times, the truth is that it was the British Government that was the architect or brain behind the enactment of this Constitution therefore this Constitution cannot be described as autochthonous, people driven, transparent inclusive and crafted in the context of popular involvement by Nigerians. On 1 October, 1960 Nigeria became an independent sovereign state within the Commonwealth. Under her Independence Constitution the Parliament of the Federation consisted of Her Majesty the Queen, a Senate, and a House of Representatives. A Governor-General, appointed by the Queen, represented Her Majesty as the Head of the Federation. He was Sir James Robertson. He however exercised power and authority on the advice of the Council of Ministers (the Federal Cabinet) presided over by the Prime Minister. Sir James Robertson was soon succeeded as Governor-General by Dr. Nnamdi Azikiwe, the first and only indigenous Governor-General of the Federation of Nigeria. The Prime Minister was Sir Abubakar Tafawa Balewa. In 1960 Constitution was clearly not a product of such popular existence. It should however be observed that the denial or participation of population choice to the 1960 Constitution alone. Throughout the pre-independence colonial era, Constitutional advance. So also was the case with the 1960 independence Constitution Structure of the 1960 Constitution.

The Constitution had 10 chapters, 159 sections and 3 scholars. A breakdown of the chapters included:

- Chapter 1:** The general provisions of the federation and its territories. It comprises of 6 sections
- Chapter 2:** Citizenship – (10 sections)
- Chapter 3:** Fundamental rights (16 sections)
- Chapter 4:** The Governor general (3 section)

**Chapter 5: Parliament (29 sections):** this has four parts

1. Composition of Parliament
2. Procedure in Parliament
3. Surrounding, Prorogation Dissolution
4. Legislative Powers

**Chapter 5: Executive Powers (20 Sections)**

**Chapter 6: Police (6 Sections)**

**Chapter 7: Courts (20 Sections)** its comprises of 4 parts

1. Federal Supreme Court
2. Appeals from the FSC to Her Majesty in Council
3. The High Court of Federal Territory

**Chapter 8: Finance (7 sections)** made up of 2 parts

1. Public Funds of the Federation
2. Allocation of Revenue

**Chapter 9: The Public Service of the Federation (10 Sections)**

**Chapter 10: Miscellaneous (5 Sections)** and lastly The Schedule which houses the Legislative list.

- Part 1: Exclusive List (44 items)
- Part 2: Concurrent List (28 items)
- Part 3: Interpretation

### **The 1960 Constitution in Perspective**

The Nigeria Independence Constitution general embodied the basic Principle and features of the Littleton of 1954 with few adjustments appropriate for independence, for example, additional powers to the centre to legislate generally for Nigeria. The 1960 Constitution had a great landmark in Nigeria's history. Firstly, it gave Nigeria a federal structure of government and Nigeria, under both civilian and military rule, has remained a federation ever since. Secondly, the constitution provided that members of the National Legislature were to come in by direct election. This was a double victory for the nationalists over European officials and native authorities alike who were thereby excluded from the legislature. Thirdly, by this constitution, ministers had full ministerial responsibilities; they were now accountable to the legislature and not the governor. Fourthly, the leader of the majority party in any of the Houses headed the government and he recommended those to be appointed ministers by the governor. Fifthly, the constitution made various other important provisions like those on revenue allocation and the status of Lagos as a Federal Territory. The other basic character of the 1960 Constitution was that it was one with a strongly entrenched federalism with the powers and functions of the state divided among the central and the regional Governments. Indeed, like all the independence Constitution of commonwealth Africa the independence Constitution shoed and amazing distrust of power. While the whole colonial edifice was but on power, the nationalist leader where expected to carry out Government on the basis of new and fragile institution. The fact is that the independence Constitution was plagued with one problem. The problem of Reconciling the various conflicting demands of the different groups [7–13].

### **CONCLUSION**

It is clear from the analysis above that in the constitutional history of Nigeria, whereas the British Colonial Government supervised six contrition (1914-1960), the military Government promulgated or supervised four Constitutions (of 1979, 1989, 1995, 1999). The only Constitution that could be said to have been enacted by Nigeria was the 1963 republican Constitution.

It is easy to see then that Constitution making is not a pure as some critics of both the colonial and military imposed Constitutions in Nigeria appear to suggest. Perhaps it is only the South African Constitution which many can really describe as “a people’s Constitution”. In truth, however, despite the two constitutional conferences that preceded the 1960 Constitution before it was made, its mature is not absolute, neither does it negate the theory that Constitution are not made by the people but are

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merely accepted by them. However, the Nigeria citizens must continue to exert pressure on the powerful actors in the Constitution processes so that the Constitution may reflect the views, values and aspirations of the people.

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