



**A CRITICAL ANALYSIS OF THE PROVISIONS OF HUMAN RIGHTS
IN THE 1999 NIGERIAN CONSTITUTION**

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Abstract

The protection of human rights in any national constitution is a recognition and part fulfillment of the international obligation of the State to take joint and separate action in cooperation with the UN for the achievement of universal respect for, and observance of, human rights and fundamental freedoms. While the need for the guarantee and protection of human rights in national constitutions cannot be doubted, it is important to do a critical content-analysis of these constitutional provisions with a view to seeing their real value against the concept of universality, interrelatedness and interdependence of human rights. The primary role of this paper therefore is to examine to what extent the provisions of the Nigerian constitution on human rights energize, invigorate, and galvanise human rights goals in Nigeria? Essentially, it is proposed to examine salient issues and problems in the extant Nigerian constitution which, arguably, deconstruct or undermine traditional human rights jurisprudence and goal. In the first part of this paper, it examines the meaning of constitution, the historical evolution of the Nigerian constitution and the concept of human rights so as to provide the fundamental knowledge needed for further analysis. This would be followed by a critical content analysis of the provisions of

human rights in the 1999 constitution. For the evaluation of the Nigerian constitution in relation to human rights, John Locke's philosophy of natural rights is employed as a theoretical framework. This paper submits that the Nigerian Constitution in relation to the defense of human rights is deficient and requires urgent amendment.

Keywords: Human, Rights, Nigerian, Constitution, Military.

INTRODUCTION

Although the idea of constitution can be traced to ancient Greece, it came to its greatest development during the period which witnessed the maturing of liberal democracy with its emphasis on the protection of individual rights against government intrusion. Consequently, it is hardly surprising that the notion of constitutional government is so closely tied up with the belief that the sphere of political authority must be clearly defined and its purpose limited to the protection of individual rights. The modern conception of constitutionalism also represented the culmination of a lengthy tradition of higher law thought. The idea that there is a realm of law above the enactments of any particular government has its roots in antiquity. This was developed by St. Thomas Aquinas in the thirteenth century and became known as the natural law¹. The natural law was thought to provide a standard by which the laws passed by governments could be evaluated. It was also a law that was above the enactments of sovereigns and hence possessed a higher claim on the obligation of the citizen.

Thus, by the eighteenth century, Americans thought of a constitution as a higher law. It was that body of law which established the government, articulated the rights of the citizens that were not to be violated by the government, and stipulated what the government

¹Thomas Aquinas, *St. Summa theologiae (ST)*. 1981. Trans. Fathers of the English Dominican Province. Westminster: Christian Classics. IaIIae 94.2

could do and how it could do it. This is what Thomas Paine had in mind when he wrote, "A Constitution is a Thing antecedent to Government, and a Government is only the Creature of a Constitution"². And the constitution which establishes the government also imposes both substantive and procedural limitations on the exercise of power by that government³.

As a country of about 400 ethnic nationalities with diverse cultural composition, languages and aspirations, it became automatically necessary for Nigeria to work with a constitution. This explains why the adoption of a constitution is almost as old as Nigeria. Her first Constitution, the Clifford Constitution, was enacted in 1922, barely eight years after the amalgamation of Nigeria in 1914. Nigeria has since experimented with several constitutions in its search for an acceptable constitution. These are the Clifford Constitution of 1914, Richardson Constitution of 1946, Macpherson Constitution, 1951, Lyttleton Constitution, 1954, Independence Constitution, 1960, Republican Constitution, 1963, the 1979 Constitution and finally, the 1999 Constitution. The 1999 Constitution was amended two years ago, 2010. Not minding the 2010 amendment, there is an increasing clamour to return the Constitution to the surgical table for the amendment of its many provisions.

This work studies the Nigerian constitution and her provisions on human rights. In the Nigerian constitution, human rights are embodied in two separate chapters, encapsulating both the civil and political rights and the economic, social and cultural rights. This paper undertakes a critical content analysis of the provisions of human rights in the 1999 Nigerian Constitution. It examines to what extent the provisions of the constitution on human rights energize, invigorate, and galvanise human rights goals in Nigeria? It raises

² Thomas Paine, *Rights of Man*, London: Dover Thrift, p. 4.

³ Duane Smith, *An Introduction to the Political philosophy of the Constitution*. Retrieved 5/5/17 from <http://www.civiced.org/papers/political.html>

pertinent issues and problems in some provisions which negate and undermine human rights goal and jurisprudence. It argues against the retention of the identified provisions and set a roadmap for reforms. In the first part of this paper, it examines the meaning of constitution, the historical evolution of the Nigerian constitution and the concept of human rights so as to provide the fundamental knowledge needed for further analysis.

THE MEANING OF CONSTITUTION

Most modern nations have fundamental documents which are especially designated as Constitutions that define the scope and limits of the powers of organs of government which run their affairs⁴. Constitutions provide boundaries and contexts for legislative acts of national and sub-national parliaments and they circumscribe judicial interpretation of legal enactments by legislative assemblies.

The constitution is one of the major contributions of Greek civilization to the world. An instrument of the state, the constitution became more popular in the 18th and 19th centuries in Europe and the United States of America. By the 20th century, it had been globally accepted that the constitution in the written or unwritten form is a necessary instrument for democratic and representative government⁵.

The constitution is the fundamental law that establishes the character of a government by defining the basic principles to which a society must conform, by describing the organisation of the government and regulation and distribution and limitations on the functions of different government departments; and by prescribing the extent and manner of the exercise of its powers. It can also be described as a

⁴ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*.

⁵ Abiola Ajimobi, *Review and Reform: Key Elements and Implications of Nigeria's Constitution Review Process*. Retrieved 5/5/17 from <https://www.facebook.com/notes/abiola-adeyemi-ajimobi/review-and-reform-key-elements-and-implications-of-nigerias-constitution-review>.

legislative charter by which a government or group derives its authority to act⁶.

Thomas Paine "The Constitution of a Country is not the act of its Government, but of the People constituting a Government. It is the Body of Elements to which you can refer and quote article by article; and which contains the principles upon which the Government shall be established, the manner in which it shall be organized, the powers it shall have, the Mode of Elections, the Duration of Parliaments, or by what other name such Bodies may be called; the powers which the executive"⁷.

Aristotle, in his classic, *Politics*, gave what has become an authoritative definition of Constitution as an organisation of offices in a state, by which the method of their distribution is fixed, and the sovereign authority is determined, and the nature of the end to be pursued by the association and all its members is prescribed. A constitution is defined by Aristotle as "the arrangement of magistracies in a state, especially the highest of all."⁸ He identifies the constitution with the government: "The government is everywhere sovereign in the state, and the constitution is in fact the government. For example, in democracies the people are supreme, but in oligarchies, the few; and therefore, we say that these two forms of government also are different: and so in other cases."⁹ What Aristotle means by his definition of a constitution is that the arrangement of offices, and especially of the highest offices, determines the form of the constitution governing the state, and also determines the form of government. For example, in a state where the offices (and especially

⁶Abiola Ajimobi, *Review and Reform: Key Elements and Implications of Nigeria's Constitution Review Process*. Retrieved 5/5/17 from <https://www.facebook.com/notes/abiola-adeyemi-ajimobi/review-and-reform-key-elements-and-implications-of-nigerias-constitution-review>.

⁷ Thomas Paine, *Rights of Man*, London: Dover Thrift, p. 4.

⁸ Aristotle. *The Politics*. Translated and with an introduction by Carnes Lord. Chicago: University of Chicago Press, 1984, pp. 10-11.

⁹ Aristotle. *The Politics*. Translated and with an introduction by Carnes Lord. Chicago: University of Chicago Press, 1984, pp. 11-14

the highest) are in the hands of a few, there we find an oligarchical form of constitution and government. We are accustomed to understand by the term 'constitution' only the general form of government of a particular State—the sum of the arrangements which regulate the distribution within it of political functions. Aristotle meant far more by it. He comprehends under the corresponding word 'Polity,' not only all this, but also the substantial character of the community in question, as that expresses itself in the accepted theory of the state and in the spirit of its government.¹⁰

THE HISTORICAL DEVELOPMENT OF THE NIGERIAN CONSTITUTION

Nigeria is a creation of the Constitution. Nigeria grew into an internationally recognised independent nation, in 1960, after a period of colonialism under the British government which spanned about a century beginning with the formal annexation of Lagos in 1861. Nigeria's constitutional development history can be divided into two epochs or generations: the colonial or pre-independence epoch -which covers 6 constitutional instruments (1914, 1922, 1946, 1951, 1954 and 1960) and the post-independence constitutional epochs (encompassing 3 instruments - 1963, 1979 and 1999). While each successive pre-independence constitutional instrument was enacted through an order-in-council of the British monarch, their post-independence counterparts were enacted in two ways: an Act of parliament (1963 Constitution) and military decree (1979 and 1999)¹¹.

The one 'Nigeria' story began in 1914 with the Frederick Lugard Constitution. The 1914 Constitution amalgamated the Colony and Protectorate of Southern Nigeria with the Protectorate of Northern

¹⁰ Zeller, E., *Aristotle and the Earlier Peripatetics*, Vol. II, London, Longmans, Green & co., 1897, p. 233.

¹¹ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

Nigeria under the colonial authority of the British Monarch. The emergent entity was administered under the authority of the British monarch through her appointed agent: a Governor-General. Lord Frederick Lugard was the 1st Governor-General of amalgamated Nigeria. The 1914 Constitution created a Legislative Council of the Colony which was however restricted to making laws for the Colony of Lagos alone, whilst the Governor General made laws for the rest of the country¹².

Eight years later, the 1914 Constitution was replaced by the 1922 Sir Clifford Constitution. Notably, the latter Constitution established a 46 member Legislative Council which was given law making responsibilities for the Colony of Lagos and the southern provinces. The Council had 27 members including the Governor, the Lieutenant-Governors, other elected and nominated members including three representing Lagos as the administrative and commercial capital and one representing Calabar as a big commercial centre. Notably, the 1922 Constitution introduced, for the first time in any British African territory, the elective principle with Lagos and Calabar being granted the franchise to elect their representatives to the Legislative Council¹³.

1946 saw the adoption of the Arthur Richard Constitution which defined Nigeria, for the first time, in terms of regions - thus dividing the still colonised country into three main regions: the Northern, Western and Eastern regions. This constitution came into effect after the Second World War - an event which had a significant effect on constitutional reforms relating to the governance of colonial Nigeria, and indeed Africa as a whole, as returning African heroes of the war who were conscripted to fight on the side of the British returned with a deeper understanding of national freedom and international

¹² Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

¹³ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

sovereignty. In addition, the charter of the United Nations which was adopted after the war made strong reference to the freedom of colonised peoples under the principle of respect for self-determination¹⁴.

The chain of events culminated in the formation of the National Council for Nigeria and Cameroons, which later became the National Council of Nigerian Citizens, (N.C.N.C), an organization which engaged in the active mobilization of the indigenous peoples of Nigeria to harness the global tide in favour of self-determination and political independence from the shackles of colonialism. The 1946 Constitution was thus a compromise instrument on the part of the British colonialist designed to establish a constitutional framework in which all sections of Nigeria could be represented on the Legislative Council and which guarantees an unofficial majority both in the House of Assembly and in the legislative council for indigenous Nigerians¹⁵.

Five years later, the 1946 Richards Constitution was again ditched in favour of the 1951 Sir John Macpherson Constitution. Whereas its successor suffered from the charge of being an imposition of the British colonialists without any input from the indigenous people of Nigeria, the 1951 Macpherson Constitution came into being after an unprecedented process of consultation with the peoples of Nigeria. According to Dikemgba "no other constitution so widely reached out to the people than the Macpherson constitution of 1951". Instructively, meetings and consultations leading down to its making were held at 5 levels - Village, District, Divisional, Provincial and Regional levels - before the national conference. The regional conferences were held at Ibadan, Enugu and Kaduna, respectively and produced a general consensus in favour of a federal system of

¹⁴ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

¹⁵ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

government with a few differences as to its format. The emergent Constitution represented a major advancement on the old constitutional order by introducing African elected majorities in the Central Legislature and in the Regional Houses of Assembly; endowing the legislative houses with independent legislative power in many area of state activity; and establishing a federal system for Nigeria for the first time.

Nonetheless, within three years of its operation, it soon became clear that the expansion of the political space and regional identities fostered by the 1951 Constitution were not backed up by the requisite institutional framework or insightful national leadership for the management of inherent and other tensions or conflict, at the national and regional levels, which followed its enactment. In the wake of reports of violent eruptions in the northern city of Kano which pitched northerners against southerners leading to massive loss of lives and property, the then British Secretary of State for the Colonies, Oliver Lyttleton stepped in by inviting the leaders of various political parties in Nigeria to attend a conference in London, in 1953. The outcome of that conference and another cycle of conference and consultations which followed was the 1954 Lyttleton Constitution¹⁶.

The 1954 Constitution, among others, made regional governments independent of the central government in respect of subjects and legislative powers allocated to them. It also established a unicameral legislature for the federal government and each of the 3 regional governments. In addition, Lagos was taken out of the control of any regional government and made the Federal Capital Territory; regional public services were established for each of the 3 regions; the judiciary was reorganised so as to establish regional judiciaries while autonomy was granted to the Southern Cameroons which was

¹⁶ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

up till that time part of a larger Nigeria and Northern Cameroons. Specifically, for the first time, Ministers were given specific portfolios. Thus, the Lyttleton Constitution could best be described as the transition instrument towards Nigeria's independence in 1960 under a federal structure with democratically elected federal and regional legislature.

In 1960, Nigeria was granted political independence as a sovereign state under the 1960 Constitution which provided for a parliamentary system of government, 3 regions (Northern, Eastern and Western Regions), a bicameral legislative framework at the federal (Senate and House of Representatives) and regional levels (House of Assembly and House of Chiefs) with the legislative powers of government delineated into three categories or lists - exclusive, concurrent and residual. The parliamentary system designed under the 1960 constitution recognized the British monarch as the Head of State with powers to appoint a resident agent- the Governor-General- to exercise executive powers on her behalf while a Prime Minister elected by the federal parliament acted as the Head of the federal Executive Council. The Constitution also took steps to define 'Nigerian citizenship' while outlining constitutionally protected rights for citizens and persons in Nigeria.

However, by designating the Governor-General as a representative and agent of the British Queen or Monarch - instead of the People of the independent and sovereign state of Nigeria, the effect was to render Nigeria a dominion territory - a status which contradicted the very nature and basis of the independence claimed in 1960. In addition, the 1960 Constitution denied Nigeria an effective dominion over its judicial powers as it gave final appellate authority over Nigeria to the Privy Council established by the British Queen instead of the Federal Supreme Court and its judges. Those fundamental derogations from Nigeria's sovereignty and other observed

challenges in implementing the Independence Constitution led to the enactment of the 1963 Constitution¹⁷.

Thus, the key features of the 1963 Constitution included the establishment of Nigeria's 1st republic under a parliamentary system of government by replacing the Governor-General appointed by the British monarch with a President elected directly by members of the Nigerian federal legislature. In addition, in place of the Privy Council, the Federal Supreme Court became designated as the final appellate judicial authority over any person or matter in Nigeria while steps were taken to strengthen the independence of the judiciary even further.

In 1966, that Constitution was, however, set aside by a violent military coup d'etat which supplanted the 1st Republic with military dictatorship which was to last for about 13 years –including the civil war period (1966-1969), under 4 military Heads of State, ending only in 1979 when the General Olusegun Obasanjo military administration ushered in the 2nd Republic with the promulgation of a new Constitution.

The 1979 Constitution set up Nigeria under a presidential system of government with a federal government, 19 state governments, a federal capital territory, 3 arms and 3 levels of government. Like the 1963 Constitution, the life-span of the 1979 constitution was abruptly terminated on 31st December, 1983 when the civilian administration of President Shehu Shagari and Vice President Alex Ekwueme was toppled and replaced by the military dictatorship of Generals Muhammed Buhari and Tunde Idiagbon. That regime seeded 3 other extra-constitutional regimes – the General Ibrahim Babangida military dictatorship (1985-1993), Mr. Ernest Shonekan interim civilian-led regime, General Sani Abacha military dictatorship (1993-1998) and General Abdulsalami Abubakar military administration

¹⁷ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

which successfully ushered in the 3rd Republic on the 27th of May, 1999 with the introduction of the 1999 Constitution¹⁸.

UNDERSTANDING HUMAN RIGHTS

Human rights are moral principles or norms¹⁹ which describe certain standards of human behaviour, and are regularly protected as legal rights in municipal and international law. They are commonly understood as inalienable²⁰ fundamental rights "to which a person is inherently entitled simply because she or he is a human being,"²¹ and which are "inherent in all human beings"²² regardless of their nation, location, language, religion, ethnic origin or any other status. They are applicable everywhere and at every time in the sense of being universal, and they are egalitarian in the sense of being the same for everyone. They are regarded as requiring empathy and the rule of law²³ and imposing an obligation on persons to respect the human rights of others, and it is generally considered that they should not be taken away except as a result of due process based on specific circumstances; for example, human rights may include freedom from unlawful imprisonment, torture, and execution. These rights have basis or ontological foundation as natural law. This view is complemented by Kofi Quashigha thus:

¹⁸ Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html

¹⁹ James Nickel, December 13, 2013, *Human Rights*. Stanford Encyclopedia of Philosophy. Retrieved 8/5/17. From <https://plato.stanford.edu/entries/rights-human/>

²⁰ The United Nations, Office of the High Commissioner of Human Rights, *What are human rights?*, Retrieved 8/5/17. From

<http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

²¹ Sepúlveda, Magdalena, et al.,.. *Human rights reference handbook* (3rd ed. rev. ed.). Ciudad Colon, Costa Rica: University of Peace.2004, p.3.

²² Burns H. Weston, March 20, 2014, Encyclopædia Britannica, *human rights*, Retrieved 8/5/17 from <https://www.britannica.com/topic/human-rights>

²³ Gary J. Bass (book reviewer), Samuel Moyn (author of book being reviewed), October 20, 2010, *The New Republic*, *The Old New Thing*, Retrieved 8/5/17 from <https://newrepublic.com/article/78542/the-old-new-thing-human-rights>

Human right is conceptualized as the new manifestation of the natural law concept of the Ancient and Middle ages. Natural law had always envisaged the external law conceived as principles of a right law or is conceived as principles of a right law or is patently correct solution of concrete legal questions. It is the law which the monarch or parliament itself is bound not to infringe²⁴

In the human right doctrine, the idea of natural law or natural right is encapsulated and humanized. The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems²⁵. The doctrine of human rights has been highly influential within international law, global, and regional institutions. However, it continues to provoke considerable skepticism and debates about the content, nature and justifications of human rights to this day. The precise meaning of the term *right* is controversial and is the subject of continued philosophical debate; while there is consensus that human rights encompasses a wide variety of rights such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech, or a right to education, there is disagreement about which of these particular rights should be

²⁴ Ndubuisi, F.N. *Issues in Jurisprudence and Principles of Human Right*. Lagos: Dmodus Publishers, 2002, p. 176.

²⁵ The United Nations, Office of the High Commissioner of Human Rights, What are human rights?, Retrieved 8/5/17. From <http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

included within the general framework of human rights; some thinkers suggest that human rights should be a minimum requirement to avoid the worst-case abuses, while others see it as a higher standard.

THE NIGERIAN CONSTITUTION AND HUMAN RIGHTS

It can be rightly asserted that one of the greatest objectives of the post independence Nigerian Constitutions is the protection and promotion of human rights. The preamble to the 1999 Constitution unmistakably set the tone²⁶ by dedicating itself to promote "good government and welfare of all persons on the principles of freedom, equality and Justice"²⁷. Apart from the preamble, chapters two and four of the Constitution extensively deal with human rights issues. While chapter two is captioned, Fundamental Objectives and Directive Principles of State Policy, chapter four is entitled, "Fundamental rights". Under the Fundamental Objective and Direct Principles of State Policy, the second generation rights, consisting of economic, social and cultural rights are extensively set out in sections 13 to 21. These rights are predicated on the necessity for the material well-being of the citizenry with the state playing a pivotal role. These rights which are essentially equalitarian and egalitarian in character are rooted on the belief that the attainment of certain level of social and economic standards is a necessary condition for the enjoyment of the civil and political rights. Accordingly, these rights require affirmative governmental action for their enjoyment²⁸. It is not considered imperative to discuss or set out the full text of the rights guaranteed under the Chapter. Accordingly the rights will merely be spotlighted.

²⁶ Jacob Abiodun Dada, Human Rights under the Nigerian Constitution: Issues and Problems. *International Journal of Humanities and Social Sciences*. Vol. 2. No. 12. p. 36

²⁷ Introduction, 1999 Constitution.

²⁸ K.Kartasshkin, "Economic, Social and Cultural Rights" in *The International Dimensions of Human Rights*, K. Vasak (ed) UNESCO, Paris Greenwood press, Westport Connecticut, 1982 at 111-133.

First however, it is significant to note that the obligation of the state towards the effectuation and realization of the rights is fully captured by section 13 which provides that:

It shall be the duty and responsibility of all organs of government, and of all authorities and persons exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of, (the fundamental objectives and Directive Principles of State Policy).²⁹

It guarantees, among others, the right to any person to participate and engage in any economic activities, subject to necessary restrictions, and obliges the government to protect the right of every citizen to engage in any economic activities outside the major sectors of the economy. The section further provides that the state shall direct its policy towards ensuring; among others –“that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and employment, sick benefits and welfare of the disabled are provided for all citizens.”³⁰ In Section 17, the state is obliged to “direct its policy towards ensuring that all citizens, without discrimination whatsoever have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment”³¹.

Furthermore, the state is obliged to ensure that the conditions of work are just and humane and that there are adequate facilities for leisure and for social, religious and cultural life and that the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused. Government policy is also required to ensure that there are adequate medical and health facilities for all persons and that there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.

²⁹ Section 13, 1999 Constitution

³⁰ Section 13, 1999 Constitution

³¹ Section 17, 1999 Constitution

In section 18, Government is obliged to direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels and Government shall as and when practicable provide free, compulsory and universal primary education, free university education and free adult literacy programme.

Section 21 which deals with cultural rights provides that the state shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives provided for in the constitution.

It may be noted that by section 6(6)(c) of the Constitution, the foregoing "rights are not justifiable". Consequently, no action may lie to enforce compliance. Unlike chapter ii, chapter iv of the 1999 Constitution, guarantees a catalogue of enforceable fundamental rights. The fundamental rights guaranteed under chapter iv are essentially, the civil and political rights guaranteed in major international human rights instruments. The civil and political rights form the bedrock of the first Generation Rights. These rights are libertarian in character as they relate to the sanctity of the individual and his rights within the socio-political milieu in which he is located. The rights seek to protect and safeguard the individuals, whether alone or as a group, against the abuse of power, especially by political authority.³² Since what is involved is comparable with the rights guaranteed in the UDHR and International Covenant on Civil and Political Rights 1966, it will suffice to simply enumerate these rights without amplification as follows:

1. Right to life³²,
2. Right to dignity of the human person³³,
3. Right to personal liberty³⁴
4. Right to fair hearing³⁵;

³² Section 33, 1999 Constitution

³³ Section 34 1999 Constitution

³⁴ Section 35 1999 Constitution

³⁵ Section 36 1999 Constitution

5. Right to private and family life³⁶;
6. Right to freedom of thought, conscience and religion³⁷;
7. Right to freedom of expression and the press³⁸;
8. Right to peaceful assembly and association³⁹
9. Right to freedom of movement⁴⁰
10. Right to freedom from discrimination⁴¹
11. Right to acquire and own immovable property anywhere in Nigeria⁴²
12. And Right to receive prompt compensation for compulsory acquisition of property⁴³.

Finally, to give concrete expression to the rights, section 46 empowers any person who alleges that any of the rights has been, is being or is likely to be contravened in relation to him to seek redress in any High Court and the court has the jurisdiction to make an appropriate order and issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the rights. Indeed, the earlier constitutions also made provisions for the judicial enforcement of these rights⁴⁴.

THE MILITARY AND THE NIGERIAN CONSTITUTION

The proliferation of constitutions under military regime is somewhat paradoxical given that military regimes are provisional in nature and usually justified by the need to restore constitutional order under a

³⁶ Section 37, 1999 Constitution

³⁷ Section 38, 1999 Constitution

³⁸ Section 39, 1999 Constitution

³⁹ Section 40, 1999 Constitution

⁴⁰ Section 41, 1999 Constitution

⁴¹ Section 42, 1999 Constitution

⁴² Section 43, 1999 Constitution

⁴³ Section 44, 1999 Constitution

⁴⁴ Section 42, 1979 Constitution.

civilian government. The Nigerian experience has revealed that all the constitutions drafted by the military were intended to for use by subsequent democratic administrations. How can an authoritarian government established by coup, which virtually ruled by its own laws decide to institutionalize a constitutional government by means of a new constitution? Such constitution cannot be said to be democratic. The new Constitutions also facilitate imposing constraints on the functioning of the future democratic regime, something which military rulers typically intend to do to preserve their reforms and protect their personal and corporate interest after leaving power⁴⁵.

Procedure adopted for constitution making by the military in Nigeria Military constitutions have been drafted by different procedures. Drafting of the constitution was done by a committee and submitted to a constituent assembly for deliberation; these bodies are made up of delegates appointed by the military rulers while the others are elected under their supervision. A review of the procedure adopted by the military in formulation and creation of the constitution will show that there had been some input which can which betray the interest of the people. For instance, the inclusion of S 6(6) which prevents the courts from inquiring into acts done after January 1966⁴⁶.

The level of participation especially in the formulation of the 1999 constitution does not justify the preamble to the constitution⁴⁷. The sovereign will of the people was undermined and reduced to no more than mere words while the restrained and uncontrolled will of the one man held sway. The final draft is submitted to the highest law making body of the military: Provisional Ruling Council (PRC) for

⁴⁵ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*. Lecture delivered at a forum organized by Lagos State, Nigeria, at Eko City Hall, December 1, 2010. p. 2.

⁴⁶ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*. p. 5.

⁴⁷ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*. p. 4.

promulgation and the act of this body becomes final since there is no other means of ensuring that the recommendations were not altered⁴⁸. The Nigerian experience reveals that changes were made to the final draft before promulgation.

DISCRIMINATORY CHARACTER OF THE CONSTITUTION

Another perplexing issue in the Nigerian Constitutional guarantee of human rights relates to the discriminatory provisions in it. Some of the rights are guaranteed to Nigerian citizens only. For instance, the right to private and family life under section 37 is evidently granted to Nigerian citizens only. Similarly, by sections 41 and 43 of the Constitution, the right to freedom of movement and the right to acquire and own immovable property anywhere in Nigeria are respectively guaranteed to Nigerians only. Section 43 did not attempt to hide its discriminatory intent when it unequivocally provides that: Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.⁶⁷ There is no separate section or clause where comparable right is granted to non-Nigerians living in Nigeria.

The question is, can these discriminatory provisions be justified against the garb of universality in which human rights are clothed? Major international human rights instruments contain and convey the universal character of human rights. For instance Articles 2 of the UDHR, 1948, which Nigeria has subscribed to provide that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The right to freedom of movement which is guaranteed only to Nigerians in section 41 of the Constitution is guaranteed without

⁴⁸ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*, p. 3.

qualification on grounds of nationality to everyone by Article 12 of the International Covenant on Civil and Political Rights as follows:

Everyone lawfully within the territory of a state shall, within that territory have the right to liberty of movement and freedom to choose his residence.

From the foregoing, it is submitted that the constitutional provisions which limits the enjoyment of certain rights to Nigerians are unjustifiable. It is the view of the present author that there is nothing about the rights under consideration to justify or warrant limiting their enjoyment to Nigerian citizens only. All these points to the fact that in "one time or the other in our national history, Nigeria had observed the tenets of human rights more on paper than in practice"⁴⁹.

GOVERNMENT AND DISREGARD FOR HUMAN RIGHTS

The constitution of the Federal Republic of Nigeria envisage that the three arms of government i.e. the legislature, executive and judiciary to observe and perform their individual roles as enshrined in the constitution for the betterment of the individual on one hand and the entire fabric of the society on the other hand. The supremacy of the constitution of our land is a vital organ to enthronement and sustenance of democracy or independence of the Judiciary⁵⁰. Section 1 of the 1999 Constitution provides:

'This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the federal Republic of Nigeria'

Subsection 1(3) provides thus:

⁴⁹ Ajomo, op"cit. at 105.

⁵⁰ Sahara Reporters, The Supremacy of the Constitution , Good Governance and the doctrine of Necessity: A Critical Appraisal. Retrieved 8/5/17 from <http://saharareporters.com/2010/02/25/supremacy-constitution-good-governance-and-doctrine-neccesity-critical-appraisal>.

If any other law is inconsistent with the provisions of this constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void.

'The constitution is supreme over the legislature because it does not only control the legislature in its law making functions, amendment of the constitution requires more than the procedure for ordinary law making.'

The constitution went further to provide in section 14' (2)(a):
Sovereignty belongs to the people of Nigeria from whom government through this constitution derives all its powers and authority.

From the foregoing, it means that the constitution is supreme and all the three tiers of government must adhere strictly to its provisions. The 1999 constitution defines the roles, functions and objectives of each organ of government. The supremacy of the constitution is the basic tenets of the democratic system of government. The supremacy of the constitution is amply demonstrated and well defined in Section 1(3) of the 1999 constitution as quoted above. The constitution assumes that those who wield the powers of the state will be conscious of and responsive to its obligations and responsibilities⁵¹. Powers are bestowed upon the institutions and organs of government not for the personal aggrandisement of those who wield them from time to time but for the welfare and advancement of the society as a whole. The events in the history of Nigeria and especially in our body politic is worrisome and calls for sober reflection. Presidents leave the country without constitutionally informing their people, a right that they possess. The court grants bail to people and the government

⁵¹ Sahara Reporters, *The Supremacy of the Constitution , Good Governance and the doctrine of Necessity: A Critical Appraisal.*

sits on the bail. The president sends troops to wipe out a whole village, which goes contrary to human rights⁵².

The first major hurdle militating against genuine enthronement of civil rule in Nigeria is inability of our political class to adhere to the provisions of the constitution. The Preamble of the 1999 constitution provides thus:

'We the people of the Federal Republic of Nigeria ,
having firmly and solemnly resolved to live in Unity
and harmony as one indivisible and indissoluble
sovereign Nation under God dedicated to the
promotion of Inter African solidarity world peace,
international cooperation and understanding.

And to provide for a constitution for the purpose of
promoting the good government and welfare of all
persons in our country on the principles of
freedoms, equality and justice and for the purpose
of consolidating the unity of our people''

RELIGION AND HUMAN RIGHTS

Religion, especially the Islamic religion has been accused of standing for class society and patriarchy, and thus undermining the fundamental human rights of women⁵³. This has become increasingly emphasized in relation to women. It is such that religion is now seen as one of the instruments of oppression rather than redemption. The

⁵² Sahara Reporters, *The Supremacy of the Constitution , Good Governance and the doctrine of Necessity: A Critical Appraisal*.

⁵³ Cf, Rose Uchem, "Violence Against Women in Marriage Rituals, a Prelude to Domestic Violence", in *The Proceedings of the 22nd Conference of the Catholic Theological association of Nigeria*, ed Cyril Obanure, Abuja: Aboki Publishers, 2008, p. 124; cf Mercy Amba Oduyoye, *Hearing is Knowing: Theological Reflections on Christianity in Africa*, New York: Orbis Books, 1986; cf Mary Daly, *The Church and the Second Sex*, London: Geoffrey Chapman, 1968; Rosemary R. Ruether, "Feminism and Patriarchal Religion: Principles of Ideological Critique of the Bible." *Journal study of the Old Testament*, 22 (1982). Rose Uchem, *Overcoming Women subordination: An Igbo African and Christian Perspective*, Enugu: SNAAP Press, 2001; <http://www.socialistnigeria.org/women/1-3-03.htm>, March 1, 2003.

introduction of the sharia law in Northern Nigeria in the perspective of Titi Salaam does not in any way advance the rights of women⁵⁴. In the contention of Abiola Akiyode-Afolabi,

The implementation of Sharia Penal Codes in northern Nigeria is flawed in several respects. Firstly, it does not adequately protect the rights of women. Therefore abuse, violence and discrimination against women go unpunished as they are wrongly considered to be socially acceptable. In addition, the testimony of women is devalued and treated as that of a minor or person without necessary legal capacity. Often, these biases and attitudes also affect judges and therefore the judgment of the Sharia Courts. As a result the implementation of sharia in Nigeria has placed some restrictions on the rights of women in Northern Nigeria⁵⁵.

The sharia law considers sex out of wedlock a crime punishable by death, and under this law, pregnancy is a sufficient evidence to convict an unmarried woman of the crime. However, if a man takes an oath denying of having had sex with a woman out of wedlock, is often considered sufficient proof of "innocence" unless four independent and reputable witnesses testify to seeing him take part in the act. Unfortunately, most of the culprits of the sharia law have been women⁵⁶. It is from this perspective that Abiola Akiyode-Afolabi further observes that,

These ... suggest that the thinking of the court and supporters of sharia is that only women can be guilty of the

⁵⁴ Titi Salaam, A Brief Analysis on the Situation of women in Nigeria Today. Retrieved 8/5/17 from <http://www.socialistnigeria.org/women/1-3-03.htm>.

⁵⁵ Abiola Akiyode-Afolabi, Democracy and Women's Rights in Northern Nigeria, <http://www.peacewomen.org/news/Nigeria/newsarchive03/Shariawomen.html>.

⁵⁶ Fact Sheet: Women's Rights Under Sharia in Northern Nigeria, August 22, 2002, <http://www.now.org/issues/global/082202sharia.html>.

'offences' of adultery or fornication. What happens then, in the case of seduction of minors, or rape? This suggests that men living under sharia have been given a license to rape women and seduce or assault minors, or even impregnate them in the course of a relationship and then deny responsibility and watch them face a death sentence⁵⁷.

In October 2001, court in Sokoto state convicted Safiya Hussaini of adultery, she was sentenced to death by stoning, because she became pregnant out of wedlock, even though the 35-year-old mother cried out that her daughter was raped by a neighbor. In the case of Safiya, Abiola Akiyode-Afolabi, raises questions of gender bias on the following grounds: "Her pregnancy constituted the main evidence against her, but no scientific efforts were made to establish or disprove the paternity of the child. The onus of adultery was just pregnancy. The man named in the case was allowed to go free after denying responsibility for the pregnancy"⁵⁸.

In Katsina, during the month of March, in 2002, Amina Lawal Kurami was sentenced to death by stoning for bearing a child out of wedlock. The man she identified as the child's father denied the accusation and was acquitted for lack of evidence last. However, she was later set free.

In Zamfara, there was a time women were for a period prevented from travelling in public transport, the reason being that women are not supposed to be seen in the public spheres of life, it is worst when found in the company of a man not related to you. This led to a protest from women, and the law was amended, however in practice it is evident that women are still discriminated against⁵⁹.

In an attempt to express the fact of women oppression under the Sharia law, Abiola Akiyode-Afolabi, cites an instance in Tarata Mafara

⁵⁷ Abiola Akiyode-Afolabi, Democracy and Women's Rights in Northern Nigeria.

⁵⁸ Abiola Akiyode-Afolabi, Democracy and Women's Rights in Northern Nigeria.

⁵⁹ Abiola Akiyode-Afolabi, Democracy and Women's Rights in Northern Nigeria.

local government, where single women were given a three month ultimatum to get married or face being sacked from jobs in the civil service. Some financial inducements were provided to encourage women to become married. These example, argues Abiola Akiyode-Afolabi, constitute rights violations under Nigerian law. The criminalization of women and their rights diverts attention from the real causes of crime, lack of adequate transport and housing and so forth⁶⁰.

Abiola Akiyode-Afolabi, further contends that the Nigeria constitution is supreme by virtue of the provision of Section 1 (1). Section 3 states that any other law which is inconsistent with the provisions of the constitution, shall be null and void. Chapter 4 of the 1999 constitution dwells on fundamental human rights, which include rights to freedom of thought, conscience and religion (Section 38, 1999). However, federal legislation does not specifically uphold the rights of women in areas where custom or religion violate their constitutional rights⁶¹.

In December 2008, Thisday Newspaper reported that the Kwara State Sharia Council faulted the purported plan by some members of the ruling Peoples Democratic Party (PDP) in the state to present a woman as the 2011 governorship candidate. It said that such a plan was contrary to the Sharia Law which forbids leadership by women. According to the statement signed by the vice chairman of the council in the state, Sheikh Moshood Ibrahim, "We therefore vehemently oppose this plan in Kwara State where over 80% are muslims come 2011 as being contemplated and bandied about by some members of the ruling party in the state"⁶².

From the foregoing, Abiola Akiyode-Afolabi advises that rights campaigners, women's organizations in Nigeria and elsewhere need

⁶⁰ Abiola Akiyode-Afolabi, *Democracy and Women's Rights in Northern Nigeria*.

⁶¹ Abiola Akiyode-Afolabi, *Democracy and Women's Rights in Northern Nigeria*.

⁶² Thisday Newspaper, Vol.13, No.4979, Monday, December 8, 2008, p.10.

to work towards law reform, and the domestic enforcement of international norms and standard for the observance of women's human rights such as the Convention for the Elimination of Discrimination Against Women (CEDAW). Democracy is not all about elections. The true test of democracy is a nation's capacity to uphold the constitutional, democratic and human rights of all its citizens regardless of ethnicity, race, age, economic and social status, and of course gender⁶³.

THE NIGERIAN CONSTITUTION AND INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

An important issue for consideration is the relationship between the international human rights instruments (UDHR and the African Charter) and the domestic (municipal) law, which includes the constitution. On this issue, two principal schools of thoughts have emerged, viz Monism and Dualism. While the former asserts that international law and municipal law form part of a universal legal order, the latter holds that international law and municipal law are two distinct legal orders⁶⁴. In Nigeria, the theory of dualism holds sway. The law forming the foundation upon which the status of treaties (including human rights treaties) can be assessed within the Nigerian legal order is section 12 of the Constitution which provides that: "No treaty between the federation and any other country shall have force of law except to the extent to which any such treaty has been enacted into law by the National Assembly". This provision clearly adopts the Blackstonian doctrine of transformation. The theory essentially states that international conventions or treaties are not directly enforceable in national legal systems unless provisions of such treaties or conventions have been re-enacted, by

⁶³ Thisday Newspaper, Vol.13, No.4979, Monday, December 8, 2008, p.10.

⁶⁴ M.O.U. Gasiokwu, ECOWAS: Problems of Citizenship and Free Movement, Mono-Expressions Ltd, 1988, p. 239.

municipal legislative authority, into domestic law. Simply, the implication of the above provision is that the efficacy of a treaty is dependent and predicated on its "domestication".

It held that while the Constitution has primacy over treaties, treaties enjoy equality and parity of status with domestic legislation. However, specifically referring to the African Charter on Human and People's Rights (Ratification and Enforcement) Act,⁴⁹ the court declared that: It is a statute with international flavour. Being so... if there is a conflict between it and another statute its provisions will prevail over those of that other statute for the reason that it is presumed that the legislature does not intend to breach an international obligation... The Charter possesses "a greater vigour and strength" than any other domestic statute but that is not to say that the charter is superior to the constitution.

EVALUATION AND CONCLUSION

Today, human rights issues have not only become a global concern but remarkable interest aimed at protecting and promoting universal respect for, and observance of, human rights has continually been shown at the international, regional and national levels⁶⁵. Indeed "the issue of human rights, in the recent past, has penetrated the international dialogue, become an active ingredient in interstate relations and has burst the sacred bounds of national sovereignty."⁶⁶ The formation of the United Nations Organisation⁶⁷ and the promulgation and adoption of the Universal Declaration of Human Rights⁶⁸ provided a firm foundation for the historical developments

⁶⁵ Justice Haleem, "The Domestic Application of International Human Rights Norms", in *Developing Human Rights Jurisprudence, The Domestic Application of International Human Rights Norms* London: Commonwealth Secretariat, 1988 at 93.

⁶⁶ H. J. Steiner & P. Alston, *International Human Rights in Context, Law, Politics, Morals*; Oxford, Clarendon press, 1996 at v.

⁶⁷ UNO Charter, 1945.

⁶⁸ UDHR, Adopted and proclaimed by General Assembly resolution 217 A (111) of 10 December, 1948

and globalisation of human rights. The Universal Declaration of Human Rights, 1948 represents a bold attempt by the UN to elaborate on and give concrete and authoritative expression to the imprecise and ambivalent definition of human rights contained in the UN Charter⁶⁹. The UDHR has served as a template for subsequent human rights instruments and has had a positive impact on the legal, political, and cultural evolutions of nations and remains the mirror by which every individual and every organ of society reflects on human rights⁷⁰. Since the adoption and promulgation of the UDHR 1948, the United Nations has not wavered in its commitment to the promotion and protection of human rights.

However, by the provision of section 12, the Nigerian Constitution can limit, restrict, circumscribe and abridge international human rights treaties to which Nigeria is a party. This being the case, the 1999 Nigerian Constitution like its predecessor constitutes a formidable clog to the international jurisprudence and goals of human rights. It is important to recall that Nigeria is not only a signatory to the African Charter on Human and Peoples Rights but greatly energized the process leading to its birth. In addition, Nigeria has also domesticated the Charter by enacting the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, 2004.

It is a notorious fact that many people have suffered or continued to suffer human rights infractions. Regrettably, they are unable to seek redress either because they are indigent or ignorant. Although the Constitution makes provision requiring the National Assembly to make law for rendering of financial assistance to any indigent citizen where his right has been infringed to enable him engage the services of a lawyer to prosecute his claim, this provision has remained dead letters. The National, Assembly has not made any meaningful

⁶⁹ Schifer, *Forty Years of the Universal Declaration of Human Rights*, Bulletin of Human Rights, UN., New York, 1988 at 92.

⁷⁰ *Reflections on Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology*(Barend Heijden & Bahia Tahzib-Lie eds, 1998.

provision in this regard as the Legal Aid Programme in existence is not only weak but ineffective.

Permissible derogations contained in the constitution are too wide and in some cases, nebulous and antithetical to the cause of human rights. For instance section 33 of the 1999 Constitution guarantees right to life in a widely qualified manner when it sets out in subsection (2) four grounds upon which a person may lawfully be deprived of his life. Of particular concern is the provision which excuses and justifies deprivation of life in defence of property, in order to effect lawful arrest, or to prevent the escape of a person from lawful custody. By this provision, therefore, a person who is accused of any offence no matter the nature may be extra-judicially, yet lawfully killed in an attempt either to arrest him or prevent his escape from lawful custody. Similarly, a person may be justifiably killed in defence of property. The Constitution fails to define the quantum of property which will justify such killing. In any case, ascribing or placing the value of property over and above that of human life is preposterous. It is nothing but needless retention of the old common law dogma in twenty century legislation.

The exceptions erected by the Constitution to the right to life amounts to utter derogation therefrom. Why should the police kill in defence of property? What kind of property is worth human life? For us, this is unduly protective of the capitalist ethos and is totally alien to African tradition. It could also provide a blank cheque for wanton killing by police who, on the grounds of protecting private or public property may kill.

Similarly, the provisions of section 37 dealing with right to private and family life; section 38 which guarantees right to freedom of thought, conscience and religion; Section 39 which provides for right to freedom of expression are not granted in absolute terms. Also, the provisions of section 40 and 41, which guarantee right to peaceful assembly and association and right to freedom of movement

respectively are constitutionally limited and circumscribed in the interests of defence, public safety, public order, public morality or public health among others. What these expressions mean are not defined by the Constitution. Accordingly, it is hereby advocated that the sections of the constitution which provide limitation clauses be severely reformed to promote progressive guarantee of human rights.

In Nigeria, the constitution is the basic law of the land. Thus, by section 1(3), the Constitution declares itself to be supreme and any law which is inconsistent with its provisions shall be null and void. It is for this reason that the provisions of the constitution on human rights are very important. Against the foregoing background, certain reforms are hereby proposed. First, it is suggested that human rights instruments should be excluded from the ambit of the provisions of section 12 of the Constitution which requires the National Assembly to enact treaties to which Nigeria is a party into law before they become binding and enforceable in Nigeria. As earlier noted, the ambit of the permissible derogations contained in the constitution is too wide, nebulous and dangerously susceptible to manipulations by the public officials who may instigate the passage of laws or undertake actions and policies, designed to imperil human rights enjoyment under the guise of protecting national security, or public order. Consequently, as a matter of urgency, permissible derogations must be severely limited and well defined.

Popular participation should be institutionalized in Nigeria. Constitution making should be made popular to generate public interest so that the constitution will not be an ordinary document and remote. Constitutions seek to channel the behaviour of officials by setting the stage within which they act. The military personnel are indeed Nigerians but their constitutional right to be involved in the constitutional making process should be exercised not only at their discretion but in consonance with every other Nigerian. Compromise

and negotiation are essential and cannot be substituted⁷¹. Nigerians need to demand and fight for the review of the constitution to restore the valuable aspects of the constitution that had been removed by self driven amendments, to rationalise and refocus the judiciary, legislature and executive power of the state, to ensure the welfare of the people, and effectively tackle the many political, social, cultural and economic problems that the country faced due to failings of the constitution.

In this paper, we have carefully examined human rights provisions in the Nigerian 1999 Constitution. The irresistible conclusion to draw is that human rights provisions in the Constitution are in significant respect not consistent with the contemporary conception, global goals and aspirations of human rights. It is imperative to note that the place of national constitutions in human rights protection cannot be overemphasised especially when it is appreciated that ultimately, effective protection must come from within the state. The international human rights system does not place delinquent states in political bankruptcy or take over the administration of a country in order to assure the enjoyment of human rights. Rather the international system seeks to persuade or pressure states to fulfil their obligations through one or another method – either observing national law similar to the international norms, or making the international norms themselves part of the national legal and political order. Taking from John Locke's theory of natural rights, all persons possess equal natural rights by virtue of being human persons⁷². This is not to be altered by circumstances or position one occupies in the society. This natural rights is fundamentally anchored the natural law. to deny any person of this right is to tamper with the dignity of the person. Thus, every Nigerian, independent of religion or cultural

⁷¹ Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*, p. 2.

⁷² A. Matthew, *The Equality of Mankind According to John Locke*. Rome: Gregorian University, 1997, p. 56.

affiliation is worthy of the respect that accrues from respecting another's human rights.

BIBLIOGRAPHY

Abiola Ajimobi, *Review and Reform: Key Elements and Implications of Nigeria's Constitution Review Process*. Retrieved 5/5/17 from <https://www.facebook.com/notes/abiola-adeyemi-ajimobi/review-and-reform-key-elements-and-implications-of-nigerias-constitution-review>.

Abiola Akiyode-Afolabi, *Democracy and Women's Rights in Northern Nigeria*, <http://www.peacewomen.org/news/Nigeria/newsarchive03/Shariawomen.html>.

Aristotle. *The Politics*. Translated and with an introduction by Carnes Lord. Chicago: University of Chicago Press, 1984.

Burns H. Weston, March 20, 2014, Encyclopædia Britannica, human rights, Retrieved 8/5/17 from <https://www.britannica.com/topic/human-rights>.

Duane Smith, *An Introduction to the Political philosophy of the Constitution*. Retrieved 5/5/17 from <http://www.civiced.org/papers/political.html>.

Fact Sheet: Women's Rights Under Sharia in Northern Nigeria, August 22, 2002, <http://www.now.org/issues/global/082202sharia.html>.

Gary J. Bass (book reviewer), Samuel Moyn (author of book being reviewed), October 20, 2010, The New Republic, The Old New Thing, Retrieved 8/5/17 from <https://newrepublic.com/article/78542/the-old-new-thing-human-rights>.

H. J. Steiner & P. Alston, *International Human Rights in Context, Law, Politics, Morals*; Oxford, Clarendon press, 1996.

Jacob Abiodun Dada, Human Rights under the Nigerian Constitution: Issues and Problems. *International Journal of Humanities and Social Sciences*. Vol. 2. No. 12. 2012.

James Nickel, December 13, 2013, *Human Rights*. Stanford Encyclopedia of Philosophy, Retrieved 8/5/17. From <https://plato.stanford.edu/entries/rights-human>.

Justice Haleem, "The Domestic Application of International Human Rights Norms", in *Developing Human Rights Jurisprudence, The Domestic Application of International Human Rights Norms* London: Commonwealth Secretariat, 1988.

K.Kartasshkin, "Economic, Social and Cultural Rights" in *The International Dimensions of Human Rights* K. Vasak (ed) UNESCO, Paris Greenwood press, Westport Connecticut, 1982 at 111-133.

M.O.U. Gasiokwu, *ECOWAS: Problems of Citizenship and Free Movement*, Mono-Expressions Ltd, 1988.

Mary Daly, *The Church and the Second Sex*, London: Geoffrey Chapman, 1968; Rosemary R. Ruether, "Feminism and Patriarchal Religion: Principles of Ideological Critique of the Bible." *Journal study of the Old Testament*, 22 (1982).

Mercy Amba Oduyoye, *Hearing is Knowing: Theological Reflections on Christianity in Africa*, New York: Orbis Books, 1986.

Ndubuisi, F.N. *Issues in Jurisprudence and Principles of Human Right*. Lagos: Dmodus Publishers, 2002.

Nigeria - The Constitution Development History. Retrieved 3/5/17 from www.lawnigeria.com/CONSTITUTIONHUB/1960-1999ConstitutionofNigeria.html.

Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*.

Peter Ekeh, *Military Rule and Damage to the Spirit of the Nigerian Constitution*. Lecture delivered at a forum organized by Lagos State, Nigeria, at Eko City Hall, December 1, 2010.

Reflections on Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology. Barend Heijden & Bahia Tahzib-Lie eds, 1998.

Rose Uchem, "Violence Against Women in Marriage Rituals, a Prelude to Domestic Violence", in *The Proceedings of the 22nd Conference of the Catholic Theological association of Nigeria*, ed Cyril Obanure, Abuja: Aboki Publishers, 2008.

Rose Uchem, *Overcoming Women subordination: An Igbo African and Christian Perspective*, Enugu: SNAAP Press, 2001.

Sahara Reporters, *The Supremacy of the Constitution , Good Governance and the doctrine of Necessity: A Critical Appraisal*. Retrieved 8/5/17 from <http://saharareporters.com/2010/02/25/supremacy-constitution-good-governance-and-doctrine-necessity-critical-appraisal>.

Schifer, *Forty Years of the Universal Declaration of Human Rights*, Bulletin of Human Rights, UN., New York, 1988.

Sepúlveda, Magdalena, et al., *Human rights reference handbook (3rd ed. rev. ed.)*. Ciudad Colon, Costa Rica: University of Peace. 2004.

The United Nations, Office of the High Commissioner of Human Rights, *What are human rights?*, Retrieved 8/5/17. From <http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>.

Thisday Newspaper, Vol.13, No.4979, Monday, December 8, 2008.

Thomas Aquinas, *St. Summa theologiae (ST)*. 1981. Trans. Fathers of the English Dominican Province. Westminster: Christian Classics.

Thomas Paine, *Rights of Man*, London: Dover Thrift.

Titi Salaam, A Brief Analysis on the Situation of women in Nigeria Today. Retrieved 8/5/17 from <http://www.socialistnigeria.org/women/1-3-03.htm>.

UDHR, Adopted and proclaimed by General Assembly resolution 217 A (111) of 10 December, 1948.

Zeller, E., Aristotle and the Earlier Peripatetics, Vol. II, London, Longmans, Green & co., 1897.