

**CONSTITUTIONALISM, HUMAN RIGHTS AND
THE JUDICIARY IN NIGERIA**

by

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DECLARATION

I declare that **Constitutionalism, Human Rights and the Judiciary in Nigeria** is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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ABSTRACT

The cultivation of a culture of constitutionalism remains the greatest challenge to Nigeria's constitutional democracy. Militarism affected in a very substantial way Africa's efforts to develop a culture of constitutionalism in the continent. Nigeria typifies the failed African effort in trying to establish an enduring democracy and constitutionalism. After ten years of transition from militarism to constitutional democracy and the euphoria of the country's return to democracy, the country is still on a slow march in the entrenchment of the practice of constitutionalism. This work primarily sets out to investigate the state of constitutionalism in Nigeria. Human rights and judiciary as constituents of constitutionalism are the main focus of that investigation. A crucial question that encapsulates the main objective of the study is how can Nigeria entrench a culture of constitutionalism?

The study, therefore, investigates the question whether constitutional formalism or textualism without more can guarantee constitutionalism. It advocates that constitutionality does not necessarily lead to constitutionalism. The work further probes into the nature, extent and reasons for the past failure of constitutionalism in the country and its current state. The study also embarks on an exploration into the mechanisms for the protection of human rights, the problems and challenges in Nigeria. The challenges include the introduction of the "new Sharia" by some States in Nigeria; the failure to accord socio-economic rights due consideration in Nigerian jurisprudence and the poor pace of the domestication of human rights norms. The work demonstrates the relationship and linkage between human rights, democracy and judicialism in the study of constitutionalism.

KEY TERMS

Communalism; constitution; constitutionalism; democracy; domestication; dualism; fundamental rights; human rights; international law; judicialism; judiciary; monism; treaties; universalism.

ABBREVIATIONS

AAA	American Anthropological Association
AC	Law Reports (Appeal Cases)
ACHPR	African Charter on Human and Peoples' Rights
ACRWA	African Charter on the Rights and Welfare of the Child
AFRC	Armed Forces Ruling Council
A-G	Attorney-General
AIR	All India Reporter
ALL ER	All England Law Reports
All NLR	All Nigeria Law Reports
ANLR	All Nigeria Law Repots (Reprints)
ATM	Awaiting Trial Men
AU	African Union
AUCPCC	African Union Convention on Preventing and Combating Corruption
BCLR	Butherworths Constitutional Law Reports
CCHCJ	Certified Copies of High Court (of Lagos State) Judgments
CDC	Constitution Drafting Committee
CDD	Centre for Democracy and Development
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
Ch	Law Reports (Chancery Division)
CHR	Case on Human Rights
CJ	Chief Judge
CJN	Chief Justice of Nigeria
CLO	Calabar-Oguja-Cross River
CLRN	Commercial Law Reports, Nigeria
CURE	Citizen United for Rehabilitation of Errants
DPSP	Directive Principles of State Party
DTN	Daily Times of Nigeria
CLR	Commonwealth Law Reports
EALR	East African Law Reports
ECHLR	European Convention on Human Rights and Fundamental Freedoms

ECSLR	East Central State Law Reports
ECHR	European Court of Human Rights
EFCC	Economic and Financial Crimes Commission
EHR	European Human Rights Reports
EHRLR	European Human Rights Law Review
FCA	Federal Court of Australia
FGM	Female Genital Mutilation
FHC	Federal High Court
FHCLR	Federal High Court Law Reports (Nigeria)
FMG	Federal Military Government
FREPR	Fundamental Rights (Enforcement Procedure) Rules
FRN	Federal Republic of Nigeria
FSC	Federal Supreme Court Reports
F2d	Federal Reporter Second Series (US)
GC	Grand Chambers
HRLRA	Human Rights Law Reports of Africa
IACHR	Inter-American Commission on Human Rights
IDEA	International Institute for Democracy and Electoral Assistance
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHLR	Interights Commonwealth Human Rights Law
ICJ Report	Report of the International Court of Justice
ICPC	Independent Corrupt Practices Commission
IHL	International Humanitarian Law
ILR	Israeli Law Report
ICRC	International Society of Red Cross
JCA	Justice of the Court of Appeal (Nigeria)
JHRLR	Journal of Human Right Law and Practice
JSC	Justice of the Supreme Court (Nigeria)
LEDAP	Legal Defence and Assistance Project
LRC (Const)	Law Reports of the Commonwealth (Constitution)
LRC	Law Reports of the Commonwealth

MASSOB	Movement for the Actualization of the Sovereign State of Biafra
MEND	Movement for the Emancipation of the Niger Delta
NAPTIP	National Agency for Prohibition of Trafficking in Persons
NBA	Nigerian Bar Association
NCLR	Nigerian Constitutional Law Reports
ND	No date
NGO	Non Governmental Organization
NE	Northeastern Report (US)
NCLR	Nigeria Constitutional Law Reports
NHRC	Nigerian Human Rights Commission
NLR	Nigeria Law Reports
NNPC	Nigerian National Petroleum Corporation
NRNLR	Northern Nigeria Law Reports
NSA	National Security Agencies
NWLR	Nigerian Weekly Law Reports
NZLR	New Zealand Law Reports
OAU	Organization of African Unity
OPCAT	Optional Protocol on the Convention against Torture
P	Page
Para	Paragraph
PCA	President of the Court of Appeal (Nigeria)
PDP	Peoples Democratic Party
PIL	Public Interest Litigation
PSCR	Pakistan Supreme Court Reports
PUCL	Peoples Union for Civil Liberties
QB	Law Reports (Queen's Bench Division)
SA	South African Law Reports
SAN	Senior Advocate of Nigeria
SC	Supreme Court Reports (Selected Judgments) (Nigeria)
SCC	Supreme Court Cases (India)
SCGLR	Supreme Court of Ghana Law Reports
SCNLR	Supreme Court of Nigeria Law Reports

SCR	Supreme Court Reporter (India)
S.Ct	US Supreme Court Reporter
SERAC	Social and Economic Rights Action Centre
SMR	United Nations Standard Minimum Rules for the Treatment of Prisoners
SPDC	Shell Petroleum Development Company
UCLA	University of California Los Angeles
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNISA	University of South Africa
UPLR	University of Pennsylvania Law Review
UPR	Universal Periodic Review
US	United States
WACA	Selected judgments of the West African Court of Appeal
WLR	Weekly Law Reports
WRN	Weekly Report of Nigeria

TABLE OF CONTENT		PAGE(S)
DECLARATION		ii
ACKNOWLEDGEMENTS		iii
ABSTRACT AND KEY TERMS		iv
ABBREVIATIONS		v
CHAPTER 1		
INTRODUCTION		
1.1.	Background to the study	1
1.2	Research problem	3
1.3	Objectives or aims of the study	5
1.4	Rationale of the study	7
1.5	Assumptions underlying the study	8
1.6	Scope and limitations of the study	11
1.7	Research methodology	12
1.8	Literature review	13
1.9	Expected findings	20
1.10	Division of the study	21
CHAPTER 2		
CONSTITUTIONALISM, HUMAN RIGHTS AND DEMOCRACY		
2.1	Introduction	23
2.2	Constitutionalism, human rights and justice: the challenges	23
2.3	Constitutionalism	24
	2.3.1 Transformative constitutionalism	31
	2.3.2 Imposed constitutionalism	32
	2.2.3 Fractured constitutionalism	34
	2.3.4 Constitutionalism in pre-colonial Africa	34
2.4	Evolution of human rights	36
	2.4.1 Definitional problems of human rights	39
	2.4.2 Fundamental rights as human rights	42
	2.4.3 Indivisibility, universalism and relativism of human rights	45
	2.4.4 Human rights in pre-colonial Africa	54

2.5	Democracy	66
2.5.1	Democracy in pre-colonial Africa	70
2.5.2	Democracy in contemporary Africa	72
2.5.3	The relationship between democracy, human rights and good governance	74
2.6	Summary	77

CHAPTER 3

CONSTITUTIONALISM AND THE PROTECTION OF HUMAN RIGHTS

3.1	Introduction	78
	The 1999 Constitution, military rule and constitutionalism	79
3.2.1	The 1999 Constitution	79
3.2.2	Military rule and constitutionalism	81
3.3	Constitutional protection of civil and political rights	86
3.3.1	Right to life	87
3.3.2	Right to dignity of human person	95
3.3.3	Right to personal liberty	104
3.3.4	Right to fair hearing	108
3.3.5	Right to privacy and family life	117
3.3.6	The right to freedom of thought, conscience and religion	118
3.3.6.1	Sharia	119
3.3.6.2	The constitutionality of the new Sharia	122
3.3.6.3	Secularism in Nigeria	133
3.3.7	Freedom of expression and the press	135
3.3.8	Right to peaceful assembly and association	140
3.3.9	Right to freedom of movement	142
3.3.10	Right to freedom from discrimination	144
3.3.10.1	Customary discriminatory practices against women	148
3.3.11	The right to vote	155
3.4	Constitutional protection of social, economic and cultural rights	156
3.4.1	Right to acquire and own immovable property	156

3.4.2	Directive principles of state policy	158
3.4.3	Judicial application of directive principles and socio-economic rights: the concerns and justifications	162
3.4.4	Judicial application of directive principles in India	165
3.4.5	Judicial application of directive principles in Nigeria	171
3.4.6	Judicial protection of social and economic rights in South Africa	182
3.4.7	Realizing socio-economic rights through the African Charter	183
3.4.8	Right to development	190
3.5	Summary	195

CHAPTER 4

DOMESTICATION OF HUMAN RIGHTS NORMS

	Introduction	196
4.1	International law and human rights	196
4.3	Relationship between international and national law	198
4.3.1	Monism	199
4.3.2	Dualism	200
4.3.3	Incorporation and transformation theories	201
	4.3.3.1 Incorporation	201
	4.3.3.2 Transformation	201
4.4	Customary international law	201
4.4.1	Norms of <i>jus cogens</i>	204
4.4.2	International humanitarian law	207
	4.4.2.1 The Geneva Conventions as customary law	208
4.5	Domestication of treaties	210
4.5.1	Domesticated human rights treaties in Nigeria	212
	4.5.1.1 Geneva Conventions	213
	4.5.1.2 African Charter on Human and Peoples' Rights	213
	4.5.1.3 Conventions on the Rights of the Child	214
	4.5.1.4 Conventions against Trafficking in Persons	218

4.5.2	Non-domesticated human rights treaties	220
4.6	Judicial interpretation of section 12(1) of the 1999 Constitution	222
4.7	Judicial application of non-domesticated treaties	225
4.8	Judicial application of customary international law.	232
4.9	Summary	233

CHAPTER 5

JUDICIAL ENFORCEMENT OF HUMAN RIGHTS

5.1	Introduction	235
5.2	Judiciary and constitutionalism	235
5.3	The judicial system in Nigeria	239
5.4	Judicial work environment	241
5.5	<i>Locus standi</i>	246
5.5.1	<i>Locus standi</i> in public law	246
5.5.2	<i>Locus standi</i> under the 1999 Constitution	249
5.5.3	<i>Locus standi</i> in fundamental rights enforcement	251
5.5.4	Locus to enforce human rights on behalf of a person	254
5.5.5	Justification for the restrictive application of the <i>locus standi</i> rule in public interest litigations	260
5.6	Validity of the Fundamental Rights (Enforcement Procedure) Rules (FREPR).	263
5.7	Procedural challenges in the enforcement of fundamental rights	264
5.7.1	The principal claim in the application must be for the enforcement of fundamental rights	264
5.7.2	The categories of persons that can apply for enforcement of the fundamental rights	267
5.7.3.	Whether the facts in support of the application shall be contained in the statement or verifying affidavit	269
5.7.4	The hearing of the application for enforcement of the right must be entered within 14 days of the grant of leave	271

5.7.5	The motion or summons must be served on all the parties directly affected	273
5.7.6	An affidavit of service must be filed before the hearing of application	274
5.7.7	The FREPR as one of the modes for the enforcement of fundamental rights	277
5.6.8	Applicability of the FREPR to the African Charter and other human rights treaties	278
5.8	Right to legal representation	281
5.9	Remedies for the breach of fundamental (human) rights	282
5.9.1	The grant of a declaratory remedy	283
5.9.2	Remedy for the violation of the right to property	284
5.9.3	Remedy for the breach of the right to fair hearing	288
5.9.4	The remedy of damages or compensation and public apology	289
5.9.5	The remedy of injunction	290
5.6	Summary	291
CHAPTER 6		
CONCLUSION AND RECOMMENDATIONS		
6.1	Summary of findings	293
6.2	Recommendations	299
BIBLIOGRAPHY		313

