



NATIONAL OPEN UNIVERSITY OF NIGERIA

COURSE CODE :POL 126

**COURSE TITLE:
CITIZEN AND THE STATE**

**COURSE
GUIDE**

**POL 126
CITIZEN AND THE STATE**

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CONTENTS	PAGE
Introduction	1
Course Aims.....	1
Course Objectives	1
Working Through This Course	2
Course Materials	2
Study Unit	2
Textbooks and References.....	3
Assessment File.....	3
Tutor-Marked Assignment (TMA)	3
Final Examination and Grading	3
Course Marking Scheme	4
Presentation Schedule.....	4
Course Overview/Presentation Schedule	4
How to Get the most from this course	5
Tutors and Tutorials	5
Summary	6

Introduction

Welcome to POL 126: Citizen and the State

This course is a three-credit unit course for undergraduate students of political science. The materials have been developed with the Nigeria context in view. This course guide gives you an overview of the course. It also provides you with information on the organisation and requirements of the course.

Course Aims

The aims are to help you understand the nature of citizen and state relations especially as it relates to the obligations of the state to the citizens and the correlative duty of the citizens to the state. These broad aims will be achieved by:

- Introducing you to the concept of the state and citizenship
- Acquainting you with the theories of state and citizenship
- Acquainting you with the rights of a citizen
- Acquainting you with the limitations of public authority in relation to the rights of citizens.

Course Objectives

To achieve the aims set out above, POL 126 has overall objectives. In addition, each unit also has specific objectives. The unit objectives are at the beginning of each unit. I advise you read them before you start working through the unit. You may want to refer to them during your study of the unit to check your progress. Here are the wider objectives for the course as a whole. By meeting the objectives, you count yourself as having met the aims of the course. On successful completion of the course, you should be able to:

- a. know what constitutes the state as well as be able to list the features of the state
- b. state the theories of the state
- c. analyze state-society relations
- d. understand political obligation
- e. know the basis of liberty/freedom and what constitutes citizenship
- f. know what types of rights exist and which regime guarantees it.
- g. understand the basis for loyalty and patriotism.

Working through this Course

To complete this course, you are required to read the study units and other related materials. You will also need to undertake practical exercises for which you need a pen, a note – book, and other materials that will be listed in the guide. The exercises are to aid you in understanding the concepts being presented. At the end of each unit, you will be required to submit a written assignment for assessment purposes. At the end of the course, you will write a final examination.

Course Materials

The major materials you will need for this course are:

- i) Course Guide
- ii) Study Guide
- iii) Assignments File
- iv) Relevant text books including the ones listed under the unit.

Study Unit

There are **22 units** in this course. They are listed below:

Module 1 State in Political Analysis

Unit 1	State in Political Analysis
Unit 2	Origin of the State
Unit 3	Theories of the State
Unit 4	The Nigerian State
Unit 5	Society and State Relations

Module 2 Legitimacy and Political Obligation

Unit 1	Principles of Political Obligation
Unit 2	Principles of Natural Duty
Unit 3	Moral Constraints of Political Obligation
Unit 4	Public/ Basic Goods
Unit 5	Civil Disobedience

Module 3 Citizenship and Rights

Unit 1	Liberty/Freedom
Unit 2	Citizenship and Rights
Unit 3	Contentious Issues of Citizenship
Unit 4	Gender and Citizenship
Unit 5	Rights of Citizenship

Module 4 Government Responsibilities

Unit 1	Theories of Rights
Unit 2	Practice of Rights and Responsibilities
Unit 3	Regime Types and Guarantee of Rights
Unit 4	Limitations on Rights and Public Authority
Unit 5	Government Responsibilities
Unit 6	Institutions of Governance and Responsibilities
Unit 7	Patriotism/ Loyalty

Textbooks and References

Certain books have been recommended in the course. You may wish to purchase them for further reading.

Assessment File

An assessment file and a marking scheme will be made available to you. In the assessment file, you will find details of the works you must submit to your tutor for marking. There are two aspects of the assessment of this course; the tutor-marked and the written examination. The marks you obtain in these two areas will make up your final marks. The assignment must be submitted to your tutor for formal assessment in accordance with the deadline stated in the presentation schedule and

the assignment file. The work you submit to your tutor for assessment will count for 30% of your total score.

Tutor-Marked Assignments (TMAs)

You will have to submit a specified number of the TMAs. Every unit in this course has a Tutor-Marked Assignment. You are required to attempt all the questions and you will be assessed on all of them but the best four performances (from the TMAs) will be used for your 30% grading. When you have completed each assignment, send it together with a Tutor-Marked Assignment form, to your tutor. Make sure each assignment reaches your tutor on or before the deadline for submissions. If for any reason, you cannot complete your work on time, contact your tutor for a discussion on the possibility of an extension. Extensions will not be granted after the due date unless in exceptional circumstances.

Final Examination and Grading

The final examination will be a test of three hours. All areas of the course will be examined. Find time to read the unit all over before your examination. The final examination will attract 70% of the total course grade. The examination will consist of questions which reflect the kinds of self assessment exercise and tutor marked assignment you have previously encountered. And all aspects of the course will be assessed. You should take the time between completing the last unit and taking the examination to revise the entire course.

Course Marking Scheme

The following table lays out how the actual course mark allocation is broken down.

Assessment	Marks
Assignments 1-3(the best three of all the assignments submitted)	Four assignments, marked out of 10% totaling 30%
Final Examination	70% of overall course score
Total	100% of course score

Presentation Schedule

The dates for submission of all assignments will be communicated to you. You will also be told the date of completing the study units and dates for examinations.

Course Overview and Presentation Schedule

Unit	Title of Works	Week Activity	Assessment (end of Unit)
Course Guide			
Module 1	State in Political Analysis		
Unit 1	State in Political Analysis	Week 1	Assignment 1
2	Origin of the State	Week 2	Assignment 2
3	Theories of the State	Week 3	Assignment 3
4	The Nigerian State	Week 4	Assignment 4
5	Society and State Relations	Week 5	Assignment 5
Module 2	Legitimacy and Political Obligation		
Unit 1	Principles of Political Obligation	Week 1	Assignment 1
Unit 2	Principles of Natural Duty	Week 2	Assignment 2
Unit 3	The Moral Constraints of Political Obligation	Week 3	Assignment 3
Unit 4	Public/ Basic Goods	Week 4	Assignment 4
Unit 5	Civil Disobedience	Week 5	Assignment 5
Module 3	Citizenship and Rights		
Unit 1	Liberty/Freedom	Week 1	Assignment 1
Unit 2	Citizenship and Rights	Week 2	Assignment 2
Unit 3	Contentious Issues of Citizenship	Week 3	Assignment 3
Unit 4	Gender and Citizenship	Week 4	Assignment 4
Unit 5	Rights of Citizenship	Week 5	Assignment 5
Module 4	Government Responsibilities		
Unit 1	Theories of Rights	Week 1	Assignment 1
Unit 2	Practice of Rights and Responsibilities	Week 2	Assignment 2
Unit 3	Regime Types and Guarantee of Rights	Week 3	Assignment 3
Unit 4	Limitations on Rights and Public Authority	Week 4	Assignment 4
Unit 5	Government Responsibilities	Week 5	Assignment 5
Unit 6	Institutions of Governance and Responsibilities	Week 6	Assignment 6
Unit 7	Patriotism/ Loyalty	Week 7	Assignment 7

How to Get the Most from This Course

You will be required to study the units on your own. However, you may arrange to meet with your tutor for tutorials on an optional basis at the study centre. Also, you can organise interactive sessions with your course mates.

Tutors and Tutorials

Information relating to the tutorials will be provided at the appropriate time. Your tutor will mark and comment on your assignments, keep a close watch on your progress and on any difficulties you might encounter and provide assistance to you during the course. You must take your tutor-marked assignments to the study centre well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible. Do not hesitate to contact him if you do not understand any part of the study units or the assigned readings; you have difficulty with the exercises: you have a question or problem with the assignments, with your tutor's comments on an assignment or with the grading of an assignment. You should try your best to attend the tutorials. This is the only chance to have face-to-face contact with your tutor and ask questions which are answered instantly. You can raise any problem encountered in the course of your study. To gain maximum benefit from course tutorials, prepare a question list before attending them. You will learn a lot from participating in discussion actively.

Summary

The course guide gives you an overview of what to expect in the course of this study. The course teaches you the basics about citizen and state relations in the Nigerian state. We wish you success with the course and hope that you will find it both interesting and useful.

MODULE 1 STATE IN POLITICAL ANALYSIS

Unit 1	State in Political Analysis
Unit 2	Origin of the State
Unit 3	Theories of the State
Unit 4	The Nigerian State
Unit 5	Society and State Relations

UNIT 1 STATE IN POLITICAL ANALYSIS**CONTENTS**

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What is a State
3.2	Features of a State
3.3	How Sovereign Can a State be?
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

This unit ‘State in Political Analysis’ will examine what constitutes a State as well as its nature and features in a political system.

2.0 OBJECTIVES

It is expected that after this unit, the student should become familiar with the nature, features and functions of the state. To this end, the student should be able:

- define a State
- state its distinctive features
- explain how sovereign a state can be.

3.0 MAIN CONTENT**3.1 What is a State?**

The question concerns the very nature or character of the state within the activity of the *political system* as a whole. However, before we dwell on

the nature/character of the state, it is important to understand that a political system is different from a state. A *political system* consists of all the forces, processes, and institutions of a society which generate effective demand and support inputs and attendant political cooperation or conflict which are involved in the resolution of conflicts and the subsequent evolution of authoritative political decisions. In other words, a political system is - “any persistent pattern of human relationships that involves, to a significant extent, control, influence, power, or authority” (Dahl, 1976).

A state on the hand is larger than a political system. It is an artificial creation that can be related to concretely through the institutions set up in its name to define it as well as make decisions as to the organisation and regulation of the public domain. The concept of the state as an *abstract entity* or *organisational abstraction and presence* can be understood in the sense that the physical features cannot be felt except when it operates through political institutions such as: the executive, the judiciary, the administration, the armed forces, prisons, governing parties and governmental institutions (public corporations and means of information) for achieving its purposes. The government of that system through different roles obviously played by persons who create, interpret, and enforce rules that are binding on citizens are carried out through the formal institutional structure and location of authoritative decision-making in the modern state.

The political role of ‘government institutions’ is to receive inputs from their social environment and produces outputs to respond to the environment” (Putnam, 1993:8-9). It is therefore through institutional performance that societal demands are transformed into political action or devices for achieving purposes. It is clear that government evidently is an essential organ through which the state achieves its moral duty and obligation to administer and render service to the citizens of the state. Although Midgal, (1994:26) agrees with him that “the state is a special and unique kind of organization, however, he does not pitch tent with Putnam’s view that the state, through its governmental institutions, acts as a mediator between social demands and political action. Rather, he argues that the state is at the centre of continuous struggle with other organisations, over the right and ability to make binding rules in society.

Midgals contention highlights on the one hand, the state as an organisation that has the sole legitimate right to use power, exercising thus political authority over a given territory and its inhabitants. The implication of this, in effect, is that the state will be an inert entity without government at the centre of activity in the use and control of political power. On the other, the state is conceived as ‘an association of human beings whose members are at least considerable, occupying a

defined territory, and united with the appearance of *permanence* for political ends, for the achievement of which certain governmental institutions have been involved (Keeton as cited in Awolowo, 1968:13). What is implied here is that a state should be sovereign; autonomous, have a territorial boundary and have a government.

Given this rather 'standard' arguments, it becomes clear that 'the ability of the state, through a set of its defining institutions, to make acceptable and binding decisions on the organisation of the public domain is not only related to the capacity of these institutions to translate decisions into action, but also depends, in a significant sense, on the acceptability of the rules and principles underpinning the activities and actions of the state's institutions (Amuwo and Olaitan, 1994). To this end, the state has to transcend being an *organisational presence* to exist as a "set of broad organizing principles which defines and constitutes the enduring and continuous pattern of rule and governance which links and structures the many and diverse institutions of rule and governance into a coherent *whole* and *totality* (Shaheen, 1987) that is internalized and accepted by the people. The need for the internalization is based on the fact that the "society over which the state presides and superintends is essentially fragmented into 'contrasting interests' that are perpetually in a contest over the public domain such that the actions of the state in that regard hold enormous importance and implications for the various groups and interests (Gianfranco, 1978).

At this point, it is pertinent to know how the state will ensure fair play in a plural society characterised, as it were, by diversities and inequalities. The function of the state in ensuring fair play is couched in law which inevitably is the basis of the modern state which must be called upon for the resolution of the inevitable conflict between the social interests of the society and the individual selfish interests. This is because the rule of law which differentiates the modern state from the feudal or traditional society specifically is a system or at least a collectivity of norms or rules which have the object of regulating, and therefore also of affecting the actions of man, including that of the state. The organs regarded everyone as competent by to formulate and create binding legal norms in a domestic society such as Nigeria is the National Assembly. In this respect, the stereotyped concept of law as a mere command of the sovereign directed to the subject or as a mere regulator of conduct, must be significantly modified if its purpose in society is to be realised. This presupposition means that a state enjoys legitimacy and authority derived not only from the democratic mandate but built on the traditional liberal tradition of separation of legislative, executive and judiciary.

In sum, based on the above, given that the state is for man, and not man for the state or better still the state is still greater than an individual or any of its constituent units i.e parts or groups who dwell within it, it must be given a more dynamic role in the pressing duty of providing for the minimum standard of the living for its citizens, and for their happiness through social justice.

SELF ASSESSMENT EXERCISE 1

What do you understand by a State?

3.2 Features of a State

1) Effective Governmental Authority

One of the defining characteristics of the state is that it takes place within a context of the ultimate authority to which all are subordinate. Authority is a legal concept which means that government has the legal right of making decisions which people are required to obey; and the *right* to use coercion to enforce its laws. This feature is very important because governmental policies are not likely to be effective if the rules are not obeyed. Also, if the stamp of authority behind law is lacking, in line with government's authority to enforce, then no effective authority will be produced. For instance, in some societies people willingly/voluntarily comply with virtually all laws and force is really exerted while in other societies governments rely heavily on coercion which is often unsuccessful at times because of the resistance which they will encounter through riots and demonstrations. In the Nigerian society, there is substantial disobedience because most people do not comply with most laws most of the time.

2) Sovereignty

This word derived from a Latin word 'superamus' which means supremacy. The absolute and perpetual power of the state in its domestic use means the power and authority of the state over all persons, things within its territory. In other words, sovereignty means that the state has a general power of lawmaking and of the enforcement of laws.

Sovereignty' key features are:

- a) **Absoluteness:** Sovereignty is legal in nature in the sense that it is binding on all inhabitants that fall within the jurisdiction of sovereignty i.e. citizens and associations alike. There is no limitation to its legal powers. However, it is important to note the fact that when a state is a member of African Union (AU), United

Nations (UN) etc it will have to abide with the regulations of the organisation, in this sense, the state will be subjected to the laws of the international organisation. For instance, a state like Nigeria is bound to act in accordance with the principles of such organisations not minding her sovereignty. An example of how a state is bound to act in accordance with the principles of International organisations is evident in Nigeria acting in accordance with the decision of the International Court of Justice to Force Nigeria to cede Bakassi Peninsula to Cameroon. From this example it appears Nigeria's sovereignty has been limited to a certain extent. This is not so. Rather, the country is abiding by the regulations of the international organisation as a member state; hence this subjection does not in any way limit the country's sovereignty. In the same way, world opinion for the safe acquittal of Amina Lawal in Katsina State from the claws of Sharia propagandist did not in any way limit the country's sovereignty in handling domestic affairs.

- b) **Indivisibility:** Sovereignty is the supreme, final, absolute, coercive power of the state over the people living within the same, hence it is indivisible i.e. cannot be shared or divided by a state with another state.
- c) **Independent of foreign control:** Once a state becomes independent, its sovereignty remains independent (free of external control). However, in contemporary times there has been economic interference with regard to structural adjustment-the generic term used to describe a package of economic and institutional measures which the IMF, World Bank and individual Western Aid donors have persuaded many developing countries to adopt since the 1980s in return for a new wave of policy-oriented loans.

With regard to the feature of sovereignty, a number of issues have been raised especially in developing nations like Nigeria as to how sovereign can a state be? This brings in the need to distinguish between political and economic sovereignty.

- (1) **Political Sovereignty:** This refers to the power of a state to control any superior body, person or own political institutions. To this end, for a State to be fully sovereign, it has to be independent, that is, having the power to make laws through its elected representatives. In other words, political sovereignty signifies the power of the people- the electorate.

Legal sovereignty on the other hand, is the power of the government of the state to enforce the law entrenched in the constitution. The state is therefore legally sovereign if it exercises such power as long as such power is not superior or subject to anybody.

- (2) **Economic Independence or Sovereignty:** This is the power to control the economy of a state. However, most countries in the third world or developing countries though claim to be politically independent are in fact, economically dependent. A cogent example is Structural Adjustment Programme(SAP) adopted during the military regime of Ibrahim Babangida structural adjustment programme a generic term used to describe a package of economic and institutional measures is with the IMF, the World Bank and individual western- aid donor policies to overcome developmental stagnation by promoting open and free competitive economies in developing countries.

However, this recipe of deregulation, privatisation, diminishing alleged over-sized bureaucracies, reducing of subsidies etc and encouraging realistic prices so as to stimulate productivity has so far not guaranteed the desired development. Based on the above, one cannot but agree with the position that a country that cannot control the economy is not very likely to be politically autonomous. This is because the pre-requisite of political sovereignty leans on economic sovereignty given that those who control the economy may probably control the government.

- (d) **Inter-Connectedness of Activities:** By virtue of the world being a global village there is inter-dependence or inter-connectedness of the activities (at the military, economic and social levels) of the different states that make up the international system.. At the military level, it is argued that the state borders are permeable. On the economic level, there is a great deal of interdependence. So that decision about economic matters sometimes has to be taken with reference to external body or in reference with external force.

A sovereign state invests the authority of the state in certain persons or groups of persons defined by law (i.e. entrenched in the constitution). These groups of persons differ from state to state. In the United States of America sovereignty is distinguished between the president, the congress and the Supreme Court, in Britain, it is between the Queen in parliament i.e. the Queen, the Lords and commons, in Nigeria, it is with the

president, national Assembly (senate and House of Representatives) and Supreme Court.

- (4) **Permanence:** It is important to note this feature because government comes, government goes but the sovereignty of the state remains for ever. In other words as long as the state exists, sovereignty continues without interruption.
- (5) **Monopoly over the Legitimate Use of Force:** In relation to the government possessing a monopoly over a legitimate use of force the third point is related to the second. In effect, a government is legitimate if the people to whom its orders or directs believe that the structure, procedures, acts, decisions, policies, officials, or leaders of government possess the quality of ‘rightness’, propriety, or moral goodness- the right, in short, to make binding rules.

It shows that not every power being exercised is legitimate, to this end; such legitimacy can be attested to by decrees, enactments. Thus, leaders in a political system try to endow their actions with legitimacy be it feudalism, monarchy, oligarchy, hereditary aristocracy, plutocracy, representative government- democracy so as to acquire legitimacy. In essence, when a leader is clothed with legitimacy, it usually is referred to as authority with a special kind of legitimate influence.

However, in the contemporary world, the reigning political ideology (a set of more or less persistent, integrated doctrines that purport to explain and justify their leadership in the system) is “democracy” which invariably is more in need of legitimacy than most other systems. Importantly, legal legitimacy rests on a belief that power is wielded in a way that is legal; hence the constitutional rules, the laws, and the powers of official are accepted as binding because they are legal or legitimate.

This feature does not mean that there are never challenges to this authority which occurs only when the authority of the state is no longer recognised by some sector within it given that groups within a national society will sometimes resort to force in order to further their aims. However, the authority of the state is generally recognised and as consequence of this authority it is legitimate for the state to employ force in order to defend itself against internal and external challenges.

- (6) **Existence of Society-Wide Consensus:** The fourth point explains why the first three exist. The state is founded on some sort of society-wide consensus. This consensus may be based, for instance, on a common nationality (even where there are a wide variety of ethnic and racial groups). In other words, the

relationship between the influencer and influenced can be sustained through agreement i.e. the agreement of one to be subjected to that of another. Such agreement would also determine the restriction of power relations between the two groups. But whatever the basis of a consensus, there are some values throughout the system that make the functioning of a centralised political authority possible. At times too, the diversity in social, economic, religious and ethnic terms makes subordination to a common political authority possible.

- (7) **Population:** The fifth point of difference has been implicit in much of what has been highlighted above. Thus, in a state, the actors are people. However, there can be no minimum or the optimum population necessary to constitute a state. The presupposition therefore is that an intrinsic relationship should exist between the state and the inhabitants of a given state who sustain it.

SELF ASSESSMENT EXERCISE 2

List and explain the features of a state.

4.0 CONCLUSION

The unit explained the 'state' largely as an *abstract entity* which operates through political institutions such as: the executive, the judiciary, the administration, the armed forces, governing parties and governmental institutions (public corporations and means of information) for achieving its purposes.

5.0 SUMMARY

The unit examined the state and its salient features as an organisation that has the sole legitimate right to use power and exercise political authority over a given territory and its inhabitants.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain what a state is in political analysis.
2. Identify and explain the features of a state.
3. Explain your understanding of how sovereign a state can be.

7.0 REFERENCES/FURTHER READING

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UNIT 2 ORIGIN OF THE STATE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 The Theory of Divine Origin
 - 3.2 The Theory of Force
 - 3.3 The Patriarchal Theory
 - 3.4 The Matriarchal Theory
 - 3.5 The Historical/Evolutionary Theory
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor- Marked Assignment
- 7.0 References/ Further Reading

1.0 INTRODUCTION

Having looked at the nature of the state, this unit examines whether men have lived under some form of political system previously and if they have, what factors necessitated the original establishment of the state. Thus, the unit will examine the foundations of the state.

2.0 OBJECTIVES

It is expected that by the end of this unit, you should be able to:

- state the origin of a state
- state the various theories of the origin of the state.
- link it to the foundation of any modern political system.

3.0 MAIN CONTENT

3.1 How Did the State Originate

The Theory of Divine Origin

This theory is also known as the theory of the divine right of kings. Its three main propositions are the following:

1. that the State was established by an ordinance of God
2. its rulers/leaders are divinely appointed hence are not accountable to any authority but God. The justification for this proposition is in line with the specific injunction in the Bible (Rom13:1-2) that every soul or body is subject unto the higher powers ordained of God who is

most supreme. And that whoever resisteth the power resisteth the ordinance of God and shall receive unto themselves damnation.

Following from the above propositions, the essential feature scholars have argued that it is not only that God created the state in the sense that all human institutions may be believed to have had their origin in divine creation but that the will of God is supposed to be made known by revelation immediately to certain persons who are His earthly vice-regents and by them communicated to the people. It is glaring therefore that in this theory obedience to the state becomes a religion as well as a civil duty and disobedience is obviously a sacrilege. This position is evidenced in the claims of certain rulers, like James I of England, who governed absolutely without being accountable to their people. In fact, he was so absolutist that he even told his Parliament that: 'A king can never be monstrously vicious and that even if a king is wicked, it means God has sent him as a punishment for people's sins and it is unlawful to shake off the burden which God has laid upon them. Patience, earnest prayer and amendment of their lives are the only lawful means of God to relieve them of that heavy curse.'

On the contrary, it is interesting, however, to note that the view that the bad as well as the good ruler were the representatives of God and as such entitled to unconditional obedience.

The shortfall of this theory is its tendency to justify support, co-operation and obedience for a just king who invariably was instituted by the gods and rebellion against a tyrannical king who is supposedly a part of the demons. More so, although it is important to note that though this theory serves as an explanation of the origin of the state, it is now generally discredited, because it necessarily involves propositions that are to be accepted as matters of faith rather than of reason. Little wonder, that J. N. Figgis specifically explains that the theory finds little acceptance because there is a general belief either that reason should reign supreme; or that, if faith, as distinguished from reasoned conviction, be conceded to have a proper place in the life of men, its precepts should relate exclusively to matters spiritual.

But, in spite of the obvious defect of the theory, one of its merits is that it that it may create in the mass of the people, a sense of the value of order and obedience to law, so necessary for the stability of the state – and in the rulers a moral accountability to God for the manner in which they exercise their power.

SELF ASSESSMENT EXERCISE 1

Explain the main propositions and essential features of this theory.

3.2 The Theory of Force

This theory proposes that the state is the result of the subjugation of the weaker by the stronger. The reason for this perhaps may not be far from the fact that historically ‘there is not the slightest difficulty in proving that all political communities of the modern type owe their existence to successful warfare’.

In effect, as a justification of this, in the eighteenth century, Hume expressed that: ‘It is probable, that the first ascendant of one man over multitudes began during a state of war, where the superiority of courage and of genius discovers most visibly, where unanimity and concert are most sensibly felt. The long continuance of that state, an incident common among savage tribes, inured the people to submission” (Hume as cited in Appadorai, 1968).

The basic argument by Hume is that consequent upon the increase of population and the consequent pressure on the means of subsistence invariably there would be also an improvement in the art of warfare. It is therefore in this light that he conceived that a state is founded when a leader, with his band of warriors, gets permanent control of a definite territory of a considerable size.

This may occur in one of two ways:

1. When the leader, after firmly establishing his or her position as ruler of his/her own tribe, extends his/her authority over neighbouring tribes until he or she comes to rule over a large territory. This is what seems to have happened in Scandinavia, where, in the ninth century, ‘the innumerable tribes became gradually consolidated, as the result of hard fighting, into the three historic kingdoms of Norway, Denmark and Sweden’.
2. A state is founded by successful migrations and conquests. This was the history of the Normans, ‘who, in the ninth century, became the ruling power in Russia. In Nigeria, we have the cases of the conquests of the Sakkwato Conquests of Hausa Speaking lands in the North.

Expectedly, the new type of community founded by consolidation or by migration and conquest in order words differed from the tribes because of their territorial character. The understanding here therefore is that all those who live within the territory of the ruler (and not only those who were related to him by blood) were bound to obey his/her commands.

This theory like others has also been criticized not only on the claim that force is a factor in the formation of a state but rather as an element like

various causes such as kinship, religion, force and political consciousness.

SELF ASSESSMENT EXERCISE 2

This theory proposes that the state is the result of the subjugation of the weaker by the stronger. Explain.

3.3 The Patriarchal Theory

Literature has it that the greatest supporter of this group is Sir Henry Maine (1822 – 88) who in his books *Ancient Law* (1861) and *Early History of Institutions* (1875) stated that he derived his evidence from three sources which are:

1. Accounts by contemporary observers of civilisations who invariably are less advanced.
2. The records which particular races (e.g. the Greeks) have kept of their own history.
3. The records from the ancient law (e.g. Roman and Hindu).

Based on these evidences the theory argues that the unit of primitive society was the family, in which descent was traced through males and in which the eldest male parent was absolutely supreme. The theory furthermore, however, argues that despite this absolute supremacy, the power of the eldest male parent's power is not extended to life and death. In effect, the eldest male parent was as unqualified over his children and their houses as over his slaves. The theory further argues that in the case of break up in the single family obviously coordinated by the head of the first family (the chief or patriarch), into more families, the aggregation of the commonwealth of tribes makes the state.

It is also essential to know that this theory conceives the state as an extension of the family in such a way that the head of the state could be viewed as the father and the people, his/her children. Evidences in favour of this theory are Patriarchs of the Old Testament, the 'Brotherhoods' of Athens, the *patria potestas* in Rome and the family system in India.

It must be emphasized therefore that the patriarchal society which, according to this theory, was the foundation of the modern state, was characterised by three features, viz. male kinship, permanent marriage and paternal authority.

It is indeed integral to this theory that members of the patriarchal family should be able to trace their descent through the male. The essence of this is none other than the fact that 'men are counted of kin because they

are descended from the same male ancestor' but sometimes this relationship has been adjudged fictitious rather than real because in the absence of heirs the deficiency was made good by adoption.

2. The system of permanent marriage though exists as a social institution, however, it has been argued that it must not be assumed that marriage as we understand it-the permanent union of one man with one woman-was a feature of all patriarchal society. On the contrary, although polygamy, i.e. the marriage of one man to several women, was quite common it was no hindrance to the recognition of kinship through the male.
3. Paternal authority means that the male ancestors had well-nigh despotic authority over the group. Thus in early Rome the *patria potestas* (literally the authority of the father as well as in Nigeria, the respected role of the father in all communities) 'extended to all the descendants of a living ancestor, no matter how old they were' and comprised 'even the power of life and death to say nothing of control and chastisement'.

Like other theories the defect of the theory is that we cannot say that the patriarchal society has been the foundation of later institutions everywhere, or that it has been necessarily the oldest form of social organisation. This argument stems from other evidence which suggests that in some societies the patriarchal family was a later development from the matriarchal system, in which descent could be traced only through the female on account of the existence of polyandry.

Its merit is that as an explanation of the origin of the state, it emphasises one essential element in the making of the state, viz. kinship.

SELF ASSESSMENT EXERCISE 3

This theory emphasises on three essential elements in the making of the state. Explain.

3.4 The Matriarchal Theory

Among the chief exponents of this theory are McLennan (*Primitive Society*, 1865), Morgan (*Studies in Ancient Society*, 1877) and Jenks (*A History of Politics*, 1990). A distinguishing feature of this theory from the patriarchal theory is the fact that the matriarchal theory holds that the primitive group had no common male head, and that kinship among them could be traced only through the woman. It is important to highlight Jenks illustrative proposition from primitive society in Australia which posits that:

‘The real social unit of the Australians is not the “tribe”, but the totem group.... The totem group is, primarily, a body of persons distinguished by the sign of some natural object, such as an animal or tree, which may not intermarry with one another....The Australian may not marry within his totem. “Snake may not marry snake. Emu may no marry emu.” That is the first rule of savage social organisation. Of its *origin* we have no knowledge; but there can be little doubt that its *object* was to prevent the marriage of near relations.... The other side of the rule is equally startling. The savage may not marry within his totem, but he must marry into another totem specially fixed for him. More than this, he not only marries into the specified totem, but he marries the whole of the women of that totem in his own generation.’

Under this system, it is obvious that as far as there is any recognition of blood-relationship at all, it is through women, and not through men. ‘Maternity is a fact, paternity an opinion.’ Essentially, Jenks holds that society organised on such a basis gradually evolved into the family marked by paternal descent in this manner: men began to take to pastoral occupations; they domesticated animals; they recognised the value of women’s labour in tending sheep and cattle, and so gradually realised the value of permanently retaining women at home for the purpose; and thus arose the institution of permanent marriage. It is important to note that the tribe, instead of the family as the primary group; in time breaks into clans and into households, and ultimately into individual members.

The matriarchal theory is subject to the same criticism as the patriarchal on the grounds that it is incorrect to regard matriarchal society as the oldest form of social organisation everywhere. Rather, the truth is that there seems to be ‘a parallel development of which the patriarchal line is thicker and longer

SELF ASSESSMENT EXERCISE 4

Do you consider the patriarchal and matriarchal theory as sharing the same features? Explain.

3.5 The Historical/Evolutionary Theory

This theory is generally accepted because it did not consider the state neither as a divine institution nor as a deliberate human contrivance. Rather, it conceived the state coming into existence as the result of natural evolution. Based on this conviction, it is evident according to scholars that the theories previously discussed must for reasons already stated, be rejected as unsatisfactory.

The proposition therefore of the state as a product of history was aptly captured succinctly by J.W. Burgess who explained that the evolutionary theory is premised on a gradual and continuous development of human society out of a grossly imperfect beginning through crude but improving forms of manifestation towards a perfect and universal organisation of mankind.'

The beginnings of government cannot be traced to a particular time or cause because of the result of various factors through ages such as the influences as kinship, religion, war and political consciousness.

Now let us explain the key influences one after the other.

1. **Kingship:** In early society, the first and strongest bond and government was kingship. This bond expectedly, clearly defined family discipline which would scarcely be possible among races in which blood-relationship was subject to profound confusion and in which family organisation, therefore, had no clear basis of authority on which to rest. In every case, it would seem the origin of what we should deem worthy of the name of government must have awaited the development of some such definite family as that in which the father was known and known as ruler. However, whether or not the patriarchal family was the first form of the family, it must have been adequate as the first form of government.
2. **Common worship:** This undoubtedly is another element in the welding together of families and tribes. This worship evolved from primitive animism to ancestor-worship. When ancestor-worship became the prevailing form of religion, religion was inseparably linked with kinship for, at the family or communal altar; the worshipper did homage to the great dead of his/her family or group and craved protection and guidance. In some tribes, also we find that the medicine-man or magician, who naturally held a predominant position, acquired or was elevated to the position of kingship. The primitive man had implicit faith in the existence of spirits, the spirits of the dead and the spirits of nature. The medicine-man or woman, professing ability to control them by means of his/her sorcery, naturally came to be regarded with mysterious awe and acquired unique influence.

At this point, the student would have seen so far the point we have made about war and migration as important influences in the origin of the state. The point at issue is that the demands of constant warfare often led to the rise of permanent headship. In effect, when a tribe was

threatened by danger or involved in war, it was driven by necessity to appoint a leader. This continuity of war conduced to the permanence of leadership. Accordingly, war and conquest helped to give the mark of territoriality to the state. In the patriarchal society or tribe, the nexus had been that of blood; but when leader established his/her authority over a territory by conquest, over a people with whom he/her had no blood-relationship, all those who lived in that territory become his/her subjects thus making blood no longer the essential bond of unity.

Finally, political consciousness on the other hand, originally government was spontaneous, natural, and twin-born with man and the family. Indeed, Aristotle could be said to be stating a fact when he said ‘man is by nature a political animal’. This act becomes more cogent based on the fact that the need for order and security is an ever-present factor; man knows instinctively that he/she can develop the best of which he/she is capable only by some form of political organisation. Obviously, though at the beginning, it might well be that the political consciousness was really political unconsciousness; however, ‘just as the forces of nature operated long before the discovery of the law of gravitation, it is only apt to agree that political organisation really rested on the community of mind, unconscious, dimly conscious, or fully conscious of certain moral ends present throughout the whole course of development’.

SELF ASSESSMENT EXERCISE 5

Explain this theory’s conception of the state coming into existence as the result of natural evolution.

4.0 CONCLUSION

This unit explained the historical views of the state starting from the theory of the divine right of kings, how communities of the modern type owe their existence to successful warfare and arguments that although absolute supreme power of the eldest male parent does not extend to life and death even if the unit of primitive society was the family, in which descent was traced through males and in which the eldest male parent was absolutely supreme. The unit also highlighted that though the matriarchal theory holds that the primitive group had no common male head, and that kinship among them could be traced only through a woman. The theory generally accepted that though one considers the state neither as a divine institution nor as a deliberate human contrivance, however, it conceived the State coming into existence as the result of natural evolution.

5.0 SUMMARY

It is clear that the unit addressed the historical coherence of the theory of divine origin, the theory of force, the patriarchal theory, the matriarchal theory and the historical/evolutionary theory.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the historical theories of the state.
2. Account for the rationale behind the adoption by scholars' of the historical theory rather than the others.
3. Explain the developments that led to the force theory.

7.0 REFERENCES/FURTHER READING

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UNIT 3 THEORIES OF THE STATE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main content
 - 3.1 What is a theory?
 - 3.2 Theory of the State of Nature and Social Contract
 - 3.3 The Organic Theory
 - 3.4 The Liberal-Democratic Theory
 - 3.5 The Marxist Theory
 - 3.6 Differences and Similarities between the Theories
 - 3.8 Evaluation
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Having looked at the history of the state it would be appropriate to examine the consolidation of the modern state through the various theories of the modern state such as the theory of the State of Nature and Social Contract, The Organic Theory, Liberal-Democratic Theory and the Marxist Theory. The essence here is not just to indulge in blanket statements about the theory and nature of the state but to see which of them provides more insight into the analysis of Citizen and State relations in perspective within the Nigerian context.

2.0 OBJECTIVES

It is expected that by the end of this unit, you should be able to:

- define a theory
- state the various theories of the state
- apply it to any modern political system
- explain which one best explains the Nigerian situation.

3.0 MAIN CONTENT

3.1 What is a Theory?

A theory is a category with which we analyse, organise, and synthesise phenomena into interconnected and internally coherent wholes. In

effect, theory implies the business of establishing patterns of determination in discrete and diverse phenomena.

Let us now relate this explanation of theory to citizen and state relation. It refers to the conceptual tools with which we identify patterns of discrimination in social phenomena regarding from the citizens and their place in a state. By so doing, we are enabled to understand or find out what's, how's, and why's of the causes and consequences of irregularities discernible in the citizen's rights and obligations in the socio-political context of a state that require transformation for the better.

In political discussions which are of relevance to us in this course two forms of the theory of social contract which became significant during and after the Middle Ages are:

1. **The Governmental Contract:** This means a *tacit* agreement between the government and the people. This idea was largely employed by the defenders of popular liberties in the Middle Ages to resist the claims of rulers to an absolute dominion over their subjects. In other words, the idea borders on deposing a ruler when s/he had violated the agreement or pact to promote a happy life according to which he or s/he was chosen.
2. **The Social Contract:** This borders on the institution of a political society by means of a compact composition and agreement among the people by ordaining some kind of government which they would all yield to because of the experience of not being able to resolve grievances in the state of nature where all were subject only to the law of nature. And, most importantly, if men are born free' just as Milton argued in his *Tenure of Kings and Magistrates* (1649) to avert complete destruction men(and expectedly women) 'agreed by common league to bind each other from mutual injury, and jointly to defend themselves against any that gave disturbances or opposition to such agreement.'

SELF ASSESSMENT EXERCISE 1

Explain what a theory is in relation to the two forms of the theory of social contract.

3.2 The Social Contract Theory of the Origin of Political Authority

The origin of this theory is premised on 'an agreement entered into by men (and expectedly women) who originally had no governmental

organisation which resulted into a state. However, to understand the essence of a contractual agreement (the idea of a social contract) which can be found in the political treatises both of the East and the West, it is pertinent to understand that previously, the history of the world was divisible into two periods:

1. **The Pre-Institution of the State:** In this era, there was nothing like government. Hence, there was no law which could be enforced by a coercive authority. In effect, it would be apt to say men and women lived in a state of nature, and inevitably were subject only to regulations prescribed by nature because there are no human authorities to formulate these rules let alone enforce them. However, after a time lapse, a decision was reached for the establishment of government based on their consent to part with their liberty having agreed to obey the laws of government. The consent to part with their liberty is subject to a consensus having lived in a state of nature without a coercive agency. In sum, the essential idea to note is that the state is a human creation as a result of a contractual agreement between men and women.

Now let us consider the theory as developed by its most famous exponents, Hobbes, Locke and Rousseau, during the later half of the 17c and in the 18c.

Hobbes

It is significant to know that Hobbes (1588-1679) was an Englishman who lived in the days of the Civil War (1642-51). This is important because it gives an insight in explaining the nature of his political thought which seems inclined towards absolutism. This inclination was natural at a time when the most important need of his country was a strong government to maintain law and order. This background shaped the government of his political inquiry (*The Leviathan*, 1651) by his analysis of human nature in the conception of man as being essentially selfish who is moved to action not by intellect or reason, but by appetites, desires and passions. The summation is that the state of nature is none other than a society where men lived without any common power set over them. This 'condition' in the state of nature' is called Warre; and such a warre (war) as is of every man, against every man'-not war in the organised sense but a perpetual struggle of all against all, competition, diffidence and love of glory being the three main causes. It is pertinent to note that law and justice are absent, hence, the life of man could be summed up as 'solitary, poor, nasty, brutish and short'.

Hobbes also recognised that even in the primitive natural state, there are in some sense laws of nature whose essence is self-preservation i.e. 'the

liberty each man hath to preserve his own life'. In detail, these laws are: to seek peace and to ensure that it is followed; to relinquish the right to all things which being retained hinders the peace of mankind; to 'perform their covenants made'. There fore, the only way to peace is for men to give up so much of their natural rights as are inconsistent with living in peace. To therefore achieve this, a supreme coercive power is instituted, however, the contracting parties are not the community and the government, but subject with every man saying to every other that 'I authorise and give up my right of governing myself to this man or this assembly of men (government) on this condition that thou give up thy right to him and authorise all his actions in like manner'. In line with the fulfilling of this right, a state is thus created. However, certain consequences follow from the creation of state in this manner, some of which are that:

1. The government must be sovereign, and the sovereign's power absolute, for,
 - a. The sovereign's power is not held 'on condition' since the sovereign is the result of the pact, not a party to it.
 - b. The pact is not revocable at the pleasure of the subjects
 - c. Men surrender all their rights to the sovereign
 - d. As the sovereign embodies in himself the wills of all, his actions are virtually their actions, on the principle that 'whosoever acts through his agent, acts through himself.
 - e. The anti-social instincts of men are too insistent to be checked except by absolute authority.

From the above analysis, it is clear that sovereignty is inalienable, for it is essential to civil government that there should be no power in the state strong enough to the sovereign. For this same reason, sovereignty is indivisible and the sovereign is unpunishable. The sovereign is judge of what is necessary for the peace and defence of his subjects and judge of what doctrines are fit to be taught. In the same way, he has the right of making rules whereby each subject may know to what personal property he is entitled as well as the right of judicature, of making war and peace, of choosing counselors, of rewarding, honouring and punishing.

Hobbes is, however, aware that the sovereign thus defined need not necessarily be one man but that sovereignty may be located in an assembly yet he preferred monarchy because to him it had greater consistency and freedom from fluctuation in policy. Secondly, there are relatively fewer favourites in a monarchy and above all, there is the maximum identity of public and private interest in that form of government.

On the other hand, Hobbes conceives law in general not as a counsel but a command. The contention is that 'Civil law is to every subject those rules which the Commonwealth hath commanded him by word, writing or other sufficient sign of the will to make use of for the distinction of right and wrong.' In the same vein, the liberty of the subject consists in:

1. Those rights which the sovereign has permitted.
2. Those rights which by law of nature, of self-preservation, cannot be surrendered. The subject cannot therefore be compelled to kill himself/herself or to abstain from food or medicine; he is also not bound to accuse himself.
3. In general, the obligation of the subjects to the sovereign lasts no longer than his power to protect them.
4. As for other liberties, they depend on the silence of the law with the subject being free to do what the sovereign has not prohibited.

Hobbes thus bases an absolute state on 'free' contract and content; the psychological basis of his theory is fear.

It is pertinent to note that despite the aforementioned, Hobbes theory of social contract ideas have been criticised severally on the following counts:

1. That it is unhistorical; given that primitive society rested on status, not on contract.
2. That there is a disconnect between his view of human nature as essentially selfish in the state of nature and is transformed from being a savage to a saint in the state of contract
3. That it is not commonsensical to contend that men surrender almost all their natural rights.
4. The failure to realise that the principle involved in absolute sovereignty is wrong. This is because the possibility of conceiving the sovereign as all-powerful and standing above law while the citizen must be prepared to submit to his arbitrariness may prove to be worse prior to the contract.
5. That Hobbes' purely legal view of rights as claims recognised by the state is insufficient for political philosophy because for a legal theory of rights will tell us what in fact the character of a state is. This is because it does not tell whether the rights recognised by a state are the rights which need recognition, or why other rights do not deserve legal recognition.

SELF ASSESSMENT EXERCISE 2

Explain your understanding of Hobbes social contract theory as well as its critique.

3.3 Locke

The purpose of Locke (1632 – 1704) in his *Two Treatises of Government* (1690) was to justify the English Revolution of 1688 after James II had been deposed from the throne and William or Orange invited to occupy it. Locke's argument can be summarised as follows:

1. That in the state of nature men were free and equal because each lives according to his own liking even though this freedom, however, is not licensed.
2. There was a natural law or the law of reason which commands that no one shall impair the life, the health, the freedom or the possessions of another. In other words, the law of nature of Locke stresses the freedom and preservation because there is no common superior to enforce the law of reason hence each individual is obliged to work out his own interpretation. The point to note is that while the state of nature is not a state of chaos as Hobbes may want us to believe, however, the insecurity of enjoyment of rights among men and women was very evident. Essentially, his contention is that the state or political society is instituted so as to remedy the inconveniences of the state of nature which can be summed as follows:
 1. The quest for an established known law that will be received and allowed by common consent to be the standard of judging right and wrong as well as the adoption of a common measure to decide all controversies.
 2. The desire of a known judge that will not be biased with authority to determine all differences according to the established law.
 3. The want of power to back and support the sentence when right and to give it due execution.

All these features bring to the fore that the state for Locke, is created through the medium of a contract in which each individual agrees with every other to give up to the community the natural right of enforcing the law of reason, in order that life, liberty and property may be preserved. It is therefore significant to note that for Locke, unlike Hobbes, power resides with the community and not with the government. It must also be stressed that the contract is not general but limited and specific so much so that the natural right of enforcing the law of reason (natural rights of life, liberty and property) reserved to the individual limit the just power of the community is given up.

To this end, government is seen to be in the nature of a trust and in this way only such powers as were transferred at the time of the change from

a state of nature is embraced. It becomes essential therefore that the legislative power constituted by the consent of the people should not be arbitrary but become the supreme power in the commonwealth. In order words, it must be exercised, as it is given, for the good of the subjects.

To this effect, the Legislature must dispense justice through laws and authorised judges. This ensures that no man can be deprived of his/her property without his/her consent nor can taxes be levied without the consent of the people or their representatives. Also, the Legislature cannot transfer its powers to any other person or body and it must be a delegated power from the people who can remove or alter the Legislature, when they find that it acts contrary to the trust reposed in it.

Following the aforementioned, it appears that there is no sovereign in Locke's state in line with the Hobbesian analogy. The community is supreme even though its supreme power is latent, however, this power does not come into play so long as the government is acting according to the trust reposed in it; but when it acts contrary to that trust, the power of the community manifests itself in its right to replace that government by another.

It is apparent from the above, that integral to Locke's system is the fact that the government may be dissolved while society remains intact. In other words, Locke's theory borders on constitutional or limited government which by implication means 'a government resting on the consent of the governed'. In practice, it means that for a government to hold on to power it must be conditioned by the people hence the government expectedly should pay heed to their wishes. This conclusion by Locke was determined by distinguishing between the agreement to form a civil society and the agreement within that society to set up some particular government. In effect, if the acts of that government are contrary to the interests of the community as a whole Locke argues that there is a possibility of changing the government without destroying the continuity of civil society itself.

In sum, though Locke's method may be criticised as being unhistorical; his position that the cardinal idea that government is a trust with consent as the basis of government cannot be overlooked. Also, there is value in his concept of natural rights now generally discredited because of his conception of it as the rights of the individual anterior to organised society. A concept which is invaluable especially because of its incorporation of T.H. Green's interpretation that the nature of man demands certain rights or some conditions of life which at a particular state of civilization are necessary for the fulfillment of his personality.

SELF ASSESSMENT EXERCISE 3

Are the main issues raised by Locke in the social contract theory contrary to that of Hobbes?

3.4 Rousseau

The social contract theory of Rousseau (1712 – 78) developed in his *Contrat Social* (1762) is important on two grounds:

First, it inspired the French Revolution of 1789 which was a revolt against the despotic French monarchy.
Second, it is the springboard of the theory of popular sovereignty.

According to Rousseau, man is essentially good and sympathetic and these qualities definitely ensured a period of idyllic happiness, men being free and equal in a state of nature. However, since human relationships cannot be conflicts, and cannot be overruled in any society evidently with introduction of private property and growth in population quarrels arose thereby and compelling men and women to give up their natural freedom in a contract so as to create a civil society. This contract supposedly is a form of association which protects the person and property of each associate according to the virtue of which every one while remaining free as before’.

The implication of the above propositions is that;

1. Every one surrenders completely all rights to the *community* which becomes sovereign unlike the *Government* as in Hobbes.
2. The sovereignty of the community is as absolute just as the Government in Hobbes is implying that from the outset there was no need to limit its sovereignty in the interest of the subjects. The reason for this is none other than that the sovereign body is always all that it ought to be having been formed by only the individuals who constitute it. The implied meaning is that it can have no contrary interest against the individuals who formed it based on the supposition that all private interests more or less will not be in existence. Most importantly, bearing in mind that the will of the individual may conflict with the general will of the community which constitutes the sovereign because the social pact necessarily involves a tacit agreement that anyone refusing to conform to the general will shall be forced to do so by the whole body politic, i.e., ‘shall be forced to be free’. This is because the universal conformity to the general will guarantees each individual freedom from dependence on any other person or persons.

3. It is also interesting to note that after the contract, the individual remains as free as he/she was before for no specific reason other than the fact that the act of each given him/herself up to all, it actually amounts to given up to no one because the same right that is given up by him/herself is evidently acquired over every associate, with greater power to preserve what is left.
4. While Law is an expression of the general will and can be made only in an assembly of the whole people sovereignty can never be alienated or isolated, represented or divided. In effect, the sovereign, who is a collective being, can be represented only by himself.
5. The Government is never the same as the sovereign because of their distinguished functions of the executive and the legislative functions as well as the fact that the exercise of government is the exercise according to the law of the executive power. Moreover, the act by which a Government is established is twofold: The passing of a law by the sovereign to the effect that there shall be a Government and the appointment of governors who will act in execution of this law.

However, despite all this arguments Rousseau still protests that the Government, contrary to Locke's opinion, is not established by, and therefore is not a party to the contract. Rather, the premise of his argument therefore is that 'There is only one contract in the State which obviously excludes every other.'

Based on the above, it appears that some elements of Rousseau's social contract is a fusion of Hobbes and Locke. The influence of Hobbes in his theory is evident in the conception of the State as the result of a contract entered into by men who originally lived in a state of nature where there was only one contract in which individuals surrendered all their rights though the Government was not a party. However, an interesting aspect of this contract is that after making the contract the individuals may have only such rights as are allowed to them by law; the implication of this is an absolute sovereignty. The absolute sovereignty of the Government according to Hobbes did not sit well with Rousseau hence he posited that the Government was dependent upon the people in other words, agreeing with the essentials of the conclusion of Locke.

It is worthy to note the conclusion of two elements in his theory where he differed from Hobbes. The elements are: (1) That the theory makes the individual surrender his rights not to the ruler but to the community; (2) A clear cut difference exists between the State and the Government.

It is also important to take into consideration that although both elements are more or less like Locke's views Rousseau differs from Locke in more ways than one as the arguments above proves.

In sum, the importance of Rousseau in political thought is evidenced in the following positions:

1. That the complete surrender of rights on the part of the natural man makes sovereignty absolute while for Locke there is no absolute sovereignty because the surrender is partial.
2. The popular sovereignty in Rousseau is in continual exercise while for Locke the supremacy of the people is not in the fore front and is only manifested when the Government acts contrary to its trust.
3. There is only one contract, the social pact thereby expunging the idea of a governmental compact from the contract theory
4. The absolute nature of the State.
5. His theory served as the basis for democracy and the justification of revolutions against arbitrary rule. This doctrine is premised on two or three simple principles:
 1. That men are by nature free and equal,
 2. That the rights of government must be based on some compact freely entered into by these equal and independent individuals,
 3. That the nature of the compact is such that the individual becomes part of the sovereign people, which has the inalienable right of determining its own constitution and legislation as entrenched in the Declaration of the Rights of Man (1789), the charter of the French Revolution
6. His theory demonstrated entirely that will, not force, is the basis of the State. The implication of this is that government depends on the consent of the governed.
7. His idea that the sovereign community was logically the only lawmaker subsequently had the indirect effect of stimulating direct legislation by the people through the referendum and the initiative.

Another important issue to note is that despite the importance of Rousseau in political thought, a particular inadequacy cannot be overlooked in political analysis. The obvious inadequacy is none other than his analysis did not envisage the fact that the unrestricted power of the general will might result in absolutism typical of the older kingdoms and oligarchies. In other words, to argue that the general will is always

the disinterested will of the community for the common good, and therefore always right appears not to be plausible because there is no guarantee that the will of the community will always turn out to be for the common good. This is further compounded by the realisation by Rousseau that there is a thin line between the general will so defined and the will of all (which is the sum total of particularist and sectional interests) More so, to Rousseau the sovereign are the people themselves gathered in solemn general assembly, without private interest, as a whole incapable of injustice to any members.

SELF ASSESSMENT EXERCISE 4

What is the importance of Rousseau's political thought as evidenced in the issues raised above?

3.5 Merits of the Social Contract Theory

The theory has some merits such as:

1. It serves as a reminder to Government of the human purposes which the State can serve so as to justify its existence. As Kant, the German philosopher, said: This is because 'The legislator is under the obligation to order his/her laws as if they were the outcome of a social contract.'
2. In line with Locke and Rousseau's idea that civil society rests not on the consent of the ruler but of the ruled the theory instituted what subsequently became an important factor in the development of modern democracy.

Defects of the Social Contract Theory

Despite its merits the theory has some defects:

- 1) It is untenable: From the historical point of view various scholars argue that the contract theory of the origin of political authority is untenable not because there were no historical records when the compacts must have been made but because historical evidence through which inference about the primitive conditions may be imagined were impossible to lay hands on.
- 2) The theory pre-supposes individuals as agents of contracts. However, this runs contrary to the Maine research revelations which showed that the progress of societies has been from status to contract. According to Maine, this conclusion was reached because contract essentially is understood as not the beginning but the end of society. Also, the idea of contract postulates that

individuals who enter into the contract are free to do things in their own way; but Maine posits that the evidence of early law and custom shows that primitive men had no such freedom because primitive society rested not upon contract but upon *status*. This position was justified by the conviction that in a society men were born into the station and the part they were to play throughout life was not dependent upon a matter of choice or of voluntary arrangement in what relations men were to stand towards one another as individuals. In specific terms, the command of the law of status is that 'He who is born a slave, let him remain a slave; the artisan, an artisan; the priest, a priest' while merit, aptitude, and individual freedom were allowed to operate only within the sphere of each man's birthright.

Based on these conditions, the very idea of individuals contracting themselves into civil society would seem improbable. More over, even if an original contract exists it cannot necessarily bind the descendants of those who originally entered into the contract. Rather, the guiding factor according to Bentham is not compulsion but the simple realisation that rebellion does more harm than good.

- 3) The theory appears to favour anarchy, hence it is dangerous in practice. The premise of this conviction is based on the regard that the State and its institutions were instituted as a result of the individual will. To this end, it can be argued that there can be sufficient authority if the individual will is contradicted. This point was better stressed in Burke's famous description of the State as an institution that ought not to be considered as nothing better than a partnership agreement. This is because it is a partnership in all science, a partnership in all art, a partnership in every virtue and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are dead, and those who are to be born.'
- 4) That the assumptions by almost all exponents of the theory argue that men in a state of nature are equal is incorrect. This position is hinged on the German jurist von Haller (1768 – 1854) conception that inequality, rather than equality, is natural.
- 5) The theory is also adjudged illogical: This is because it presupposes that the political consciousness which exists in a people who are merely living in a state of nature could only be possible in individuals who are already within a State.

SELF ASSESSMENT EXERCISE 5

Explain the merits and demerits of the social contract theory.

3.6 Organic Theory of the State

This theory though old fashioned is accredited to **Hegel**.

Its basic features are: that the state is a rational order which exists, essentially, to achieve “identity in difference”. It is superior to the civil society (the second level in the structure of the modern state-the first level is the family, while the state is the third, and highest level.). This consists in the fact that the civil society which is simply ‘a form of social organisation in which persons function as mere individuals or social atoms who happen to come together to satisfy their natural or acquired needs through some mode of exchange’(Doniela,1986) is divisive while the state is a source of harmony. In effect, with the state as a rational order, it should be able to ‘differentiate between the forces that are socially cohesive and forces that are socially disruptive’. Thus, for Hegel, while conflicts and their resolutions may be inevitable features of the modern world, the state exists to minimise these conflicts (and their attendant fragmentation of society) and maximise cohesion. This theory is of the view that the state, therefore, is a “reconciling realm” where the individual freedom is harmonised with the interest of the universal. For Hegel, then, the state is a necessary good because it makes possible the reconciliation of individual interest with the universal interest.

SELF ASSESSMENT EXERCISE 6

What are the basic features of the organic theory and how is it different from the social contract theory?

3.7 Liberal-Democratic Theorists

These theorists venerate individual interest and personal freedom to such an extent that they see the role of the state purely in terms of the protection of individual rights and liberties. For them, political society(the state) is a ‘human contrivance for the protection of the individuals property in his person and goods and (therefore) for the maintenance of orderly relations of exchange between individuals who are regarded as proprietors themselves’(Macpherson,1962).The state, according to the liberal-democratic view, is a neutral, though coercive, force whose function is , as John Locke would put it, the preservation of the people’s lives, liberty and property, irrespective of the social class to which they may belong.

It is important to highlight the similarities and differences in Organic and the Liberal-Democratic theories.

Similarities

The Hegelian Organic Theory of the State and the Liberal-Democratic Theorists agree on the following:

1. Both deny the class, composition nature and historical character of the state.
2. Both assume that the state is a neutral political power.
3. Both agree that the state is an inevitable socio-political institution.

Difference

The only difference in their positions is this: while the liberal theorists agree with Hegel that the state is necessary in human society, for them, it is a “necessary nuisance” whose power over the individual should be as minimal as possible.

SELF ASSESSMENT EXERCISE 7

State the basic features of this theory as well as its glaring differences and similarities?

3.8 The Marxist Theory of the State

This theory does not agree with the above positions. To Karl Marx, the state is, essentially, a coercive apparatus which is usually in the service of the ruling class in a class-divided society, and it is a “product and manifestation” of irreconcilable class antagonisms in society. In the *Communist Manifesto*, Karl Marx and Frederick Engels wrote that “the executive of the modern state is built on a committee for managing the common affair of the whole bourgeoisie”. This contention aptly captures the class basis of the state and as an instrument of dominating other classes even though within classical Marxism, there is the conception of the state as *independent*, though rooted in the economic basis of society.

In the *Eighteenth Brumaire of Louis Bonaparte*, K. Marx aptly explains this independent nature of the state using the revolutionary events in France evidenced in the industrial action of the bourgeoisie revolution which led to the overthrow of financial oligarchy. With the crushing of the democratic forces by the industrial bourgeoisie and the events leading to the rise of Louis Bonaparte (Bonaparte represents a class, and the most numerous class of French society at that) as Marx notes, under the second Bonaparte, ‘the state seemed to have made itself completely independent’. In other words, there emerged the independent character of the state. However, although the state was independent of

the factions of bourgeoisie class, “yet” the independent nature of the state at the political level is deeply rooted in the balance of class forces and the struggles emanating from the principal contradictions within the state.

Based on this, the essential features of a state according to the Marxists are:

- a. The state is a power, separated from, in fact standing above, and society. This special power according to Engel’s is necessary because a self-acting armed organisation of the population has become impossible since the split into classes. Consequently, it exists in every class society and “consists not only of armed men but also of material adjuncts, prisons and institutions of coercion of all kinds.
- b. Funds Acquisition: To maintain itself, the state requires funds hence it resorts to levying of taxes. In effect, as the state apparatus grows as a result of the intensification of the class contradictions in society, and between societies, the maintenance of the state ‘swallows up more and more of the resources of the society’.
- c. The state divides its subject on the basis of territory unlike the clan or tribal organisations which divide their people according to blood relationship. This territorial feature means that the state has boundaries that are inviolable i.e. it cannot be violated. The territorial division of the population will encourage economic ties as well as the political conditions of their regulation.

The above Marxist features of the state further undermine the Marxist methodological principle/framework of the materialist interpretation of history. This history stresses the reciprocal link between the substructures of society i.e. the modes of production (given that the mode of production determines the superstructure of society) and its corresponding production relations-and the superstructure of society (network of social, political, legal, moral, cultural and intellectual life).

Basic Elements of Marxist Theory

1. The state as a political power is not inevitable since eventually it (the state) would cease to exist. This important position is rooted in the fact that the state did not exist in the earlier periods of development of the society when the mode of production was very rudimentary and undifferentiated, no division in the social conditions, except between the two sexes, no division of society into categories of rulers and ruled, therefore there were no antagonistic classes. Instead, “social relations were regulated by

the force of habit, custom and tradition embodying common life and work.

2. Institution of the social division of labour and the subsequent division of society into two classes: masters and slaves, exploiters and exploited. This came to be because of the development of the means of production e.g. in agriculture, domestic craft etc, so that human labour can produce more than necessary for its maintenance. This development resulted in an increased amount of work by every household community or family which subsequently resulted in the need for more power, which was obtained through war, the captives of which were made slaves.
3. The need for the establishment of a public power to control the antagonistic relations/struggle between “classes with conflicting economic interests’ such as the class of exploiters and the class of exploited. However, the state in playing this role expectedly is not neutral as it becomes the instrument of the oppression of one class in this case the non-owners of the means of production by another class, i.e. the class of owners of the means of production (economically dominant class). This brings to 3. The need for the establishment of a public power to control the antagonistic relations/struggle between “classes with conflicting economic interests’ such as the class of exploiters and the class of exploited. However, the state in playing this role expectedly is not neutral as it becomes the instrument of the oppression of one class in this case the non-owners of the means of production by another class, i.e the class of owners of the means of production (economically dominant class). This brings to bear the fact that the state contrary to Hegelian position does not reconcile the antagonistic classes in society. Instead, it maintains existing socio-political relations in any class-divided society, so as to preserve the hegemony of one class over another.
4. The character of the state and the type of “order” it maintains in any given society will be determined by the nature of its socio-economic formation. This is because of the mode of production prevalent in a society and its attendant social relations.
5. The state seeks to regulate relations between members of the ruling class so that they can maintain their cohesion as well as protecting the interests of the ruling class beyond its borders, by protecting its territory against external incursion and, at times, extending the frontiers of this territory at the expense of weak countries. It also regulates, through legal means, the whole system of social relations- ethnic, family etc; finally, it also

attempts of deal with some economic and cultural problems as they arise.

6. The Free State or the welfare states are illusory as it is only logical that the organisation of ruling class for the maintenance of its own interest cannot be free. For in protecting the interests of the economically and politically dominant class in society, it ends up suppressing the interest of the oppressed class.

SELF ASSESSMENT EXERCISE 8

What are the basic features and elements of this theory?

4.0 CONCLUSION

This unit examined the social contract theory as ‘an agreement entered into by men who originally had no governmental organisation which resulted into a State from different perspectives. It also analyzed the Classical theory of the state which gave a clear insight into the class basis of the state, the contradiction between classes and its attendant struggles and the balance of the class forces. Since the other theories are far from being rigorous enough to analyze crisis and political transformations in developing societies the classical Marxist theory of the state may be apt. This is because it is not only more rigorous in its analysis of the state but also provides a materialist foundation to the factional struggle and lack of unity within the Nigerian ruling class. This is in relation to the fact that at various points in the post-independence history of Nigeria there has been an exercise of hegemony by the ruling classes over the state to further enhance their chances of private accumulation to the detriment of not only other factions of the ruling class but also the proletariat. The utility of Marxist theory is that it is more effective or useful, for example, in reminding us of the material underpinnings of social and political processes, in analyzing inequality and the ways in which systems of exploitation and hegemony reproduces themselves amid changing circumstances.

5.0 SUMMARY

The unit examined what a theory is, the theory of the State through the salient arguments by Locke, Hobbes and Rousseau. It also highlighted the merits and demerits of the social contract theory.

6.0 TUTOR-MARKED ASSIGNMENT

1. Based on the issues raised in the text, what is the importance of the social contract theory?
2. Are there any similarities or differences between the theories?
3. What are the basic features of the Marxist theory and how is it different from other theories?

7.0 REFERENCES/FURTHER READING

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UNIT 4 THE NIGERIAN STATE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Historical Context- Pre-Colonial Period
 - 3.2 Colonialism – The Creation of the Nigerian State
 - 3.3 Independence/ Post-Independence
 - 3.4 Re-Orientating the Nigerian Society
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

In the last unit, we tried to conceptualise what the state is as well as bring to bear what constitutes its major concepts and features in general. However, that analysis would not explain the peculiarities of the Nigerian state in relation to the citizens. As a result, this unit will try to account for the peculiarities of the Nigerian state by reviewing the pre-colonial, colonial and post-colonial periods in order to understand the character of the Nigerian state to date as well as how to re-orient the Nigerian society.

2.0 OBJECTIVES

It is hoped that by the end of this unit the student should be able to:

- explain the historical context of the Nigerian state
- state the main features of each era
- evaluate the Nigerian state in relation to citizen –state relations

3.0 MAIN CONTENT

3.1 Historical Context

Pre-Colonial Period: Exploring the Primordial Communities

Originally, the pre-colonial societies (now known as Nigeria) were made up of diverse polities inhabited by a variety of ethnic groups with diverse cultures and linguistic traditions at different levels of state formation and development. Within these indigenous communities, traditional leadership institutions served the dual purpose of both cultural and political leadership of their communities. Apart from

focusing on the ideals of common good of all, the indigenous social orders schemes sustained a consensual order that prides itself in public accountability because the communities checked leadership excesses on public trust and expectations so as to ensure harmony of relationships between the ruler and the ruled.

It is important to note too that the autonomous political units with imprecise boundaries were subject to alteration depending on the leaders. This is because some societies had 'organised' political entities while many political entities had not evolved any above their lineage. This is because the heterogeneous nature of the societies/groups as well as the complexity of developing collective identities will not make it easy to achieve uniformity of political and social organisations.

Let us now do a review of the three types of socio-political groupings in Nigeria so as to understand how the indigenous societies through their different age-old institutional forms, norms and values ensured reciprocity in relations between the ruler and the ruled around basic principles.

The first, socio-political groupings comprised of *centralised states* exemplified in the institution of Caliphate in the Bornu and Sakkwato areas that shared indigenous African values and Islamic political system. Here, the ruler ruled in association with a traditional council of state that formulates and implements policies within the framework of sharia (the law which Allah has revealed to guide human affairs). This feat was achieved because the legitimacy and credibility of the leadership was based on ruling in accordance with the Sharia law (the law which God has revealed for man's direction of human affairs). The implication of this explanation is that the law becomes supreme and not the ruler or people.

The second socio-political grouping is comprised of the *centralised states* of Western/mid western states of Yoruba and Edo lands. This group premised on indigenous African values ensured that the ruler (a constitutional monarch) did not act without the consent of the state council which had a way of relieving the monarch of power and authority if any acted in the contrary so as to uphold laws of governance.

The third indigenous socio-political group in pre-colonial Nigeria comprised of people of diffused governmental authority where the elders make decisions based on consensus that are unanimously agreed upon which expectedly will be binding on all. This was the situation among the Igbo, Ijaw, Isoko, Tiv, Ukwani and Urhobo societies. Among the Igbo though, the terms '*acephalous and stateless*' are often applied to them to depict a set of highly decentralised, segmentary lineage-

oriented cultural groups (Ardener, 1959, 113-113; Onunwa, 1990:422-444) dominant around the eastern region of Nigeria. Thus, although there is no agreement of the origin of the Ibos as a preliterate stock (Afigbo, 1980:73) their segmentary lineage forms as a main scheme of social control does not amount to problems in leadership. Rather, they are deeply republican people with mapped out public schemes for administering their public affairs through native customs and traditions that abhor indiscipline. The understanding is that the political or culturally-rooted leadership that can manage power and authority is not lacking. In effect, what holds in the Igbo traditional concept of political power and authority (often diffuse in character), is structured and determined by the concept of *Umunna* (within this context the leaders emerge through the family institution which most times are patrilineal) while the memberships of associations are also based on title systems.

From the brief review, the apparent common strand among the three socio-political groupings is that all the three had theocratic tendencies (based on morality) which not only ensured justice and peace but accountability and administrative efficiency (lacking in the modern Nigerian State). This was achieved through the checks on the exercise of power reinforced by social structures as council chiefs, age-grade associations, warrior bands and religious institutions evident in the dexterity with which rule of law was applied in judging situations.

It is therefore clear that the pre-colonial system of administration was not autocratic and absolutist in nature. However, despite the feature of morality of the indigenous societies they had their weaknesses because there was one form of vice or another as we have today.

SELF ASSESSMENT EXERCISE 1

Account for the main features of the pre-colonial period.

3.2 Colonialism: The Creation of the Nigerian State

In historical terms, it is an established fact that Nigeria came into being in its present form in 1914 with the amalgamation by Sir Frederick Lugard of the two British protectorates of Northern and Southern Nigeria. This dramatically affected the demographic constitution of the citizenry. The union was so sudden and included such widely differing groups of people that not only the British who created it, but the inhabitants themselves often doubted its stability. This is evidenced in the exacerbating identity differences between the three major ethnic groups (Hausa, Igbo and Yoruba) and the minorities which now dominate a Nigeria's social and political scene. It also culminated in the

perception of northern Nigeria as being predominantly Muslim while the South would be portrayed as being predominantly Christian, further exacerbating the differences. What is worthy of note is that it appeared that demographic constituency of the new state was politically engineered in order to placate certain interests.

Basically, colonialism or 'colonial situation' (Balandier, 1951, 1966) was a disruptive force evolution of the Nigerian state and of democracy variously. Balandier's argument was that understanding the realities of the society under colonial rule cannot be divorced from the interplay of the relationships between the coloniser and the colonised so much so that it brought about 'dislocation of state-society' relations. It is this dislocation that has underpinned the character of the Nigerian state as it relates to ethnicity, minority issues as well as the politics of citizenship.

The first concerns border on the formation of the new state as well as the definition of the citizenry occurred simultaneously.

Second, the modernisation process was the dividing point between pre-colonial primordial structures, so much so that traditional institutions were not only marginalised but aided the transformation of the rural 'tribesman' who was not conscious of their differences into the modern 'urban' 'ethnic man' (cf Mitchell, 1960; Wallestein, 1960).

Third, the colonial state was created basically to ensure law and order with no 'welfarist' pretensions which was *sine qua non* for furthering the ends of colonialism which is contrary to colonial ideologies of 'civilizing mission'.

However, while this was on, the individual's identity with, and loyalty to the state transformed. This is in relation to the emergence of autonomous state ethnic organisations that came to be welfare agencies which emerged and therefore became something of an 'alternative state' or, in any case, a rival, competing with the state for the individual's loyalty and support. To this end, it could be said that apart from the colonial experience bequeathing a political economy that emphasised patronage over production, it created a political culture that tried to socialise the local population as passive subjects.

This situation entailed the development of two public realms:

- a) A communal realm based on membership in an ethnic group.
- b) A civic realm based on an assumption of universal citizenship.

In sum, the anti-colonial orientation fostered non-challant attitudes towards the state and its apparati, and the conviction that nothing was

wrong with ‘stealing from it’. By and large, in sum, it was conceived as normal to for an individual to loot the state’s treasury to the benefit of his/her group. It also bequeathed commerce over industry and state over civil society and market forces. This provided the basis for state-led corruption that is a hallmark of governance in Nigeria. However, because the citizens disagreed with this manner of government, some sections of the state were encouraged not to pay taxes and, in others, to vandalise government properties. This practice not only exploited Nigeria’s diversity but to date is one of the crises of citizenship and identity in contemporary Nigeria.

In fact, it is important to state that within this context, the colonial situation propelled the ‘ethnic associations to turn into political parties and interest groups, thereby becoming the major claimants to power’. Thus, political struggles became primarily an instrument for securing access to state resources for particular ethnic and social groups and thus becoming detached from the people and their social movements. Consequent upon the detachment, the ethnic group had to take up some of the welfare functions which the state failed to provide such as recruiting fellow ethnics to fill positions over which s/he had control, and to concentrate government projects in his or her ethnic homeland if s/he is in charge of the responsible government department.

The summary of the impact of colonialism transcends being an episode as some African historians have argued (cf. Ade-Ajayi, 1968), to epochal dislocations. This is in no other sense that apart from the result of the continuities in the ‘dislocations’ which has underpinned the character of the Nigerian state as it relates to ethnicity, minority issues as well as the politics of citizenship it also nurtured an already fragmented elite class. Accordingly, colonialism created the ‘infrastructure’ for ethnicity through building alien and mostly artificial political structures that lumped diverse people together. This is in terms of: urbanization, improved transportation and communication facilities creating new abodes of acquaintances; through Western education, social amenities, new jobs, the monetisation and integration of the economy all of which nurtured unequal competition for scarce resources (Osaghae, 1994).

SELF ASSESSMENT EXERCISE 2

Explain the creation of ethnic relations of the Nigerian State and demonstrate how this affected its main dislocations in relation to society.

3.3 Independence/Post Independence

Starting from the late 1940s, the local anti-colonial movement instead of demanding greater participation of the local elite in the colonial enterprise, the movement changed its demands to the quest for full independence. Subsequently, on the 1st of October, 1960 despite many difficulties and differences among its various component groups, Nigeria became a sovereign State. Consequent upon this, independent efforts were made by the new government to meet the social compact forged during the national mobilisation against civilian rule. However, contrary to expectations, independence unfortunately did not change the issues raised in (colonialism) given that the First Republic became mired in ethnic and regionally-based power politics so much so that it was riddled with unparalleled violence, vote-rigging, nepotism, corruption and mismanagement. The reflection of the political upheaval in the country inevitably led to the country being under military dictatorship for more than 30 years of its existence as an independent nation, starting in January 1966 with the coup of Major Chukwuma Kaduna Nzeogwu. Consequent upon this truncation of civilian rule, Nigeria had to endure nine military coups with seven military heads of state who constantly justified their usurpation of state power on one objective: to restore order and good governance in the polity. But ironically, successive regimes, with the exception of Ironsi and Buhari/Idiagbon (1983-1985), who promised and initiated transition to civilian rule programmes it was only the Obasanjo (1976-1979) and Abubakar (1998-1999) regimes that fulfilled them. With the successful execution of the transition programme (June 1998 to 29 May, 1999) the Abubakar regime finally nipped in the bud, 12 years of wide goose chase of Babangida's 'transition without end' which had commenced in 1986.

With the transition to civilian rule, the democratic process expectedly should be rooted in a full-fledged democratic process premised on democratic culture that will protect the rights of Nigerian citizens (not only a few) and invariably must express their views through unrestricted communication between the government and the governed as well as active citizens' participation in governance. However, this was not so because military rule is not only an aspect of militarism but a total culture and a way of life. Expectedly, military intervention in politics culminated into the militarisation of society so much so that the political culture of the leaders as it relates to relationship with citizens has been that of intolerance and impatience in the face of dissent. In fact, to date the militarist culture is still reflected in the behaviour of many elected officials under civilian rule so much so that the character of party politics has been on disagreements along ethnic lines over the allocation of national resources, including top government positions, and the frequent 'ethnicisation' of military coup d'états and regimes which indeed are dysfunctional to national development.

In effect, it not only led to the elevation of force, order, intimidation, compulsion and control but also to the excessive centralisation of power. In effect, to date the need for a symbiotic relationship between the executive and the legislature is still undermined. For example, while the attitude of the executive is largely intolerant the legislature tends to over exert its oversight powers on the executive. At the state level the governors are always at strife with the legislature so much so that impeachment clause is invoked even in issues undeserving. Little wonder that legitimacy of the 1999 constitution has been contested to the extent that there is agitation for genuine democratic reforms. The concept of a constitutional democracy requires the elected government to be responsive to the needs of the people, their rights, well-being and safety and not following a military command structure

At this point, it is pertinent to state that the 'political culture' of democracy constitutes:

- (a) A reflection of norms and values that place a premium on the freedom of the individual-freedom from the state abuse and infringement of rights by other individuals.
- (b) Guarantees equality before the law
- (c) Provides opportunities for all citizens to have equal access to the material and cultural resources that guarantees basic livelihood.

However, the paradox is that the Nigerian democratic culture appears to be in a dilemma in achieving these features because of the manifestations of authoritarianism such as arbitrariness, intemperate language, total absence of debate, intimidation of civil society, total disregard of civil rights, absence of rule of law and due process, total disregard of civil rights and non-independence of the judiciary.

The important point therefore from the aforementioned is that Citizen – State relations has been riddled with frustrations not because Nigerians are still impatient with matters that require due process but because the structure of the State and pattern of allocation of resources needs to be demilitarised. In the absence of these, Nigerians will not only continue to be intolerant of one another but be embroiled in the lack of acceptance of ethnic diversities, religious pluralism and cultural differences. This frustration with the pattern of orientation has culminated in the resort to violence which is now a common feature in Citizen-State relations.

In sum, the issues raised above bring to bear the fact that independence which obviously was merely a 'change of guards' rather than state apparati unfortunately did not change the issues raised in (colonialism) such as:

- (a) The retained 'alienated' character of the State as well as the continued emphasis on law, order and violence (Osaghae, 1988; Dudley, 1973; Ekeh, 1985).
- (b) The primacy of the state was greatly reinforced given that it is at the centre of the extraction and distribution of resources which is of primary interest to all groups and classes. Expectedly based on this, ethnic politics became centred on capturing the reins of state power while inter-group competition for state power got so fierce that it resulted in the protracted civil war (1967-1970) between the Federal government and the Ibo in particular who did not feel safe and secure anymore within the territorial entity known as Nigeria.
- (c) The institution of primitive accumulation of surplus basically involves the using of the state to create the 'means of production', a process that had ensured that ethnicity was easily becoming a mask for class privilege.
- (d) The emerging political parties were bent on playing the sectional cards thereby failing to offer effective platforms for national political mobilisation. Also the colonial policy and lack of vision made them become detached from the people and their social movements.

SELF ASSESSMENT EXERCISE 3

Analyze the issues raised in the Independent/post-colonial Nigerian state?

3.4 Re-Orientating the Nigerian society

What is therefore needed is the total reorientation of Nigerian society from authoritarian culture to embrace the norms and values of democracy which can be achieved through a 'massive education of the citizenry' through the media and civil society organisations. The reorienting of the society must be at three levels: the family, society and the State.

The Family: The expectation is that as the first arena of contact, children inevitably should absorb democratic norms and values. However, in most homes the opposite is the case because children are commanded instead of being consulted. The expectation is that attitudes should guide behaviour and any thing short of this is termed discrepancies between attitudes and behaviour. To therefore be a part of

the process of re-orientating the family towards a democratic culture, children's rights need to be inculcated in the home in order to nurture future democrats (IDEA, 2000:53). In effect, for a well rounded upbringing parents should be less autocratic, less overbearing and less rigid with children. In effect, children should be socialized. The essence of this is to checkmate the incremental possibility of militarised society.

Society

The essence of building a strong civic culture among the citizens is that most civil society organisations due to the incursion of military in governance have tended to focus on the civil and political rights to the detriment of economic, social and cultural rights. However, it must be reiterated that democracy must yield dividends in order to reinforce civil society only through political education at all levels of society. This is pertinent because as long as the attitude of the leadership is positive towards the culture of democracy the citizens will inevitably be obligated to it. In effect, Nigeria needs to build on its institutions as well as on policies that are people-oriented so as to enhance the development of its citizenry. The necessary issues are issues like education (this institution should be where democratic values are imparted through teaching of civics which borders on the need to create an atmosphere for students to transcend the limitations of their different provincial knowledge and orientation), media (this institution is a part of democratic institutions that need re-education and re-orientation on legislative processes and procedures), arts (the idioms of arts and popular culture i.e. songs, theatre, dance, drama, masquerades, poetry and novel forms should be used to consolidate a democracy of a state), political parties (government should democratise the formation of political parties), religious (the freedom and rights of all religious groups in Nigeria must be guaranteed) and traditional institutions (the appointment, maintenance and deposition of traditional rulers should be the prerogative of the people through the king-makers), human rights commission, gender equality, corruption and decentralisation.

The State

The problems and challenges of the structure of the Nigerian State can only be achieved when the problems and challenges that are itemised below are addressed. These are:

1. The practice of a federal system should be in reality such that power should be devolved to an acceptable level in the federating unit and not on paper. This position becomes important based on the fact that a federal state, is a political contrivance intended to reconcile national unity and power with the maintenance of state rights for certain common and mutual purposes.

2. There should be an adherence to the provisions of revenue allocation that would be in the adherence with the Constitutional Allocation of Revenue between the Federal, States as well as the Local Government are in sections 162-168 as well as A and D of part 11 second schedule under the 1999 constitution. Section 162 of the 1999 constitution provides for common pool of financial resources (called the Federation Account) which is to be distributed among the Federal and State Governments as well as the Local Government Councils in each State, on such manners as may be prescribed by the National Assembly. In the same vein, S. 162(2) sets out to pacify the oil-producing areas agitating against the Federal Government owning a lion share of the mineral revenues. The allocation of 13% to the states of origin resuscitates the principle of derivation.
3. The executive should display more of openness and transparency in leadership.
4. The civil service should jettison bureaucracy and ensure that people are served promptly, politely and efficiently.
5. The legislature should make laws independent from the influence of the executive.
6. The anti-corruption should not be about witch-hunting but an agenda aimed at nipping corruption in the bud.

SELF ASSESSMENT EXERCISE 4

How can the Nigerian society be totally re-oriented?

4.0 CONCLUSION

In this unit, we tried to explain the peculiarities of the Nigerian state from the pre-colonial, colonial and post-colonial continuity in relation to the character as well how the Nigerian society can be re-oriented through some institutions.

5.0 SUMMARY

The continuity of all the factors mentioned experienced in the colonial to the post- colonial Nigeria should be seen as complementary rather than independent, of one another. This is because both account for the character and peculiarities of citizen-state relationship in Nigeria.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the major concerns of the pre-colonial to the post-colonial Nigerian state.
2. Discuss three factors that were common from the colonial era to post-colonial era.

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UNIT 5 SOCIETY AND STATE RELATIONS

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What Constitutes the Society?
 - 3.2 Dislocation of State-Society relations
 - 3.3 Civil Organisations
 - 3.4 Comparison
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit will examine what constitutes the society, its link with the state as well as its character, transformations and its salience in citizen–state relations.

2.0 OBJECTIVES

It is hoped that by the end of this unit the student should be able to state:

- what constitutes the society?
- the nexus between the society and the state.
- the dislocations in the state-society relationship.

3.0 MAIN CONTENT

3.1 What Constitutes the Society?

The individual is essentially a member of a society. Society here is identified as the sum of social organisations which interact within the state's boundaries, as well as with the state. These organisations range from ethnic, religious, linguistic and kinship groups, clan and tribe associations, to patron-client relations, economic groups and diverse modes of production (agricultural, industrial, share cropping, pastoral) (Rania, 1996:152).

The common strand for these organisations is their struggle to formulate and enforce their own rules and regulations for the ordering of social and political life. The implication of this is that the society with its

numerous and diverging social organisations had long preceded the formation of the State.

Owing to most accounts of the origin of the state (both the bourgeois and Marxian theories of the state), the state evolved from the society. However, while the former holds that the state and society maintain equilibrium in their relations, the latter argue that the state dominates society and is an instrument of class domination (cf MacIver, 1964; Weldon, 1962, Engels, 1978, Lenin, 1977). To this end, the State can be said to be 'embedded' in the society in mutual interrelation with other societal actors (Rolf, 1996:99). This makes it subject to pressures and influences from actors of the organisations representing the society in an attempt to create a certain balance between State and society.

SELF ASSESSMENT EXERCISE 1

What do you understand as society?

3.2 Dislocation of State-Society Relations

Based on the above perspective it is obvious that the dislocation in state-society relations is traceable to the dislocation of state-society relations in Nigeria (and indeed Africa) brought about by colonialism. In effect, because the modern state was created by colonisers i.e. did not evolve from within society but outside of it the state has been purported as not only an importation but an imposed creation which expectedly was devoid of morality.

Scholars have therefore argued that while the society retained a moral order due to the commitments of individuals at community level, on the contrary the state was founded on a moral vacuum. It is this distorted growth of the public realm, given the tradition which dates back to the Greek which conceive of the society as a private realm and the state as a public realm that has made ethnicity such a salient force in Africa. This dislocation further underpinned the character of the Nigerian state-state society in relation to ethnicity, minority issues as well as the politics of citizenship. The fragmented moral order by plurality of groups contained in the state, state-society relations produced not simply the public-private realm dichotomy, but also a dichotomised public realm (Osaghae, 1994).

To this end, emphasis was on the individual's duties to fellow ethnics and ethnic group at large. Obviously, it is expected that social organisations under the leadership of "strong men" such as chiefs, landlords, bosses, rich peasants, clan leaders, money lenders and local business men will exercise social control by using a variety of sanctions,

rewards and symbols to induce people to behave according to certain rules and norms. Expectedly, also, these social organisations and their 'strong men' prevent state leaders in developing the state's own mobilisation capabilities, which in turn weakens the state.

Flowing from the above, the relationship between the Nigerian State and Society like most developing states, is segmented along ethnic, socio-economic, religious and other fault lines. This non-indication of much commonality among non-state actors led to competition for a resource which begins at the level of access and control of the state by the various factions of the ruling class culminating into civil strifes and conflicts as well as the social and political engineering in tow.

To aid this struggle, each faction mobilises existing cleavages and identities in the society especially those of ethnic groups and religion (Isumonah and Gaskia, 2001:4) couched under ethnic militia groups. For example the Movement for the Emancipation of Niger Delta (MEND), Movement for the Sovereign State of Biafra (MASSOB) in the East and the defunct ODUA People's congress bear witness to this. The mobilising force is 'parochialism or primordial attachments' i.e the mobilisation via the people's attachment to a leader whose charisma becomes the major source of legitimation and whose organisation becomes the link between civil-society interests and the public sphere.

SELF ASSESSMENT EXERCISE 2

What in your understanding constitutes the dislocation of state-society relations?

3.3 Civil Organisations

An important aspect in these societies are the existence of important independent institutions known as civil organisations which contribute to the effectiveness and stability of the democratic government because of their 'internal' effects on the individual members and their external influence on the wider society (Putnam, 1993:89). Given that 'civil society' has a variety of meanings for this course, however, let us adopt Mouzelis (1996:52), rather restrictive definition because he argues that to stretch the civil society notion to cover also non-state groups and institutions that exist in all state societies (e.g. traditional chiefdoms) weakens the concept's analytical utility. Civil society, to him, refers to all social groups and institutions which, in all *conditions of modernity* lie between primordial kinship groups and institutions on the one hand, and state groups and institutions on the other. By *conditions of modernity*, he means social settings where not only the public and private spheres are clearly differentiated, but in which exist also a large-scale mobilisation

of the population and its independent inclusion into the national, economic, political, and cultural arenas.

In line with this definition, a strong civil society strengthens state and society through:

- (a) Ensuring that the rule of law conditions effectively protect citizens from state arbitrariness;
- (b) The existence of strongly organised non-state interest groups is capable of checking eventual abuses of power by those who control the means of administration and coercion.
- (c) That there is an existence of a balanced pluralism among civil-society interests so that none can establish absolute dominance. This point presupposes that where people are brought in an authoritarian fashion it can be said to be a weak civil society.

Based on these features, it would not be out of place to query if political parties should be considered as part of a state or civil society? There are theorists in favour of either as well as those who distinguish between the state, civil society and political society and locate the parties in the political –society category. For our purpose in this course, political parties (that the main objective is to capture power) can be considered as the major organisational means for articulating civil-society interests with the state particularly in a democratic dispensation. This is because previously the distribution of political, civil and socio-economic rights was uneven and restricted. In fact, where it was available, the lower classes, although brought into the national centre, were left out as far as basic rights were concerned i.e. the rights guaranteeing them a reasonable share in the distribution of political power, wealth and social prestige.

Thus, given that basic rights was achieved either from above (by elites competing among themselves for the political support of the underprivileged), or from below (via the economic and political organisation of urban and rural workers) the popular struggle for the acquisition of rights began on the political level. For instance, what previously was centred on efforts to obtain the right to vote or to form associations has now transcended in recent times in the form of popular movements demanding the improvements in the quality of life in all aspects (environmental movement, gender etc). All these bring to bear the fact that democratisation is not only about the political but also the economic and cultural spheres.

In specific terms civil society organisations play a legitimate role in ensuring that established principles guide both the specific actions of the state and the overall goals of national development. They are important

actors in helping to create and strengthen the culture of rights within a communities and country.

SELF ASSESSMENT EXERCISE 3

How do civil organisations contribute to strengthen the relationship between the state and society?

3.5 Comparison

Flowing from the foregoing, so far we know that;

- 1) The state is a legal construct acting under constitutional terms, whereas the society usually acts on variety of purposes- religious, moral, intellectual etc.
- 2) The method by which the state obtains, support is largely through legal coercion by declaring and enforcing laws. Society, on the other hand, relies largely on persuasion.
- 3) The organisation and structure of the two are different; state is generally organized as one whereas the society has a multiplicity of organisations.
- 4) Functionally, items covered by the state and society are not mutually independent. But both act differently on these aspects. There is legal action and social action. Law can make an individual attend church service, social action but can it convert you into a religious person i.e. the “inwards development”?

SELF ASSESSMENT EXERCISE 4

Itemise what you understand in the state-society relations.

4.0 CONCLUSION

In this unit, the peculiarities of the Nigerian society, the dislocations due to colonialism as well as the role of civil societies in a state were explain.

5.0 SUMMARY

The unit explained what a society is, especially the epochal dislocation of state-society relations due to colonialism. It also explained the role of civil organisations in the society.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain what constitutes the society?
2. Discuss the nexus between society and State.
3. Analyze the dislocations in state-society relationship.

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MODULE 2 LEGITIMACY AND POLITICAL OBLIGATION

Unit 1	Principles of Political Obligation
Unit 2	Principles of Natural Duty
Unit 3	Moral Constraints of Political Obligation
Unit 4	Public/ Basic Goods
Unit 5	Civil Disobedience

UNIT 1 PRINCIPLES OF POLITICAL OBLIGATION

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	Understanding Political Obligation
3.2	Principles of fairness as Congruent to a Citizen's Obligation to the State
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

Based on the fact that the State is not only dominant among social institutions because of the authority over its members but also the right to be obeyed, this unit examines 'what constitutes political obligation'. Consequently, it will focus on the following questions: why a citizen should be obligated to the state? What are the proper limits of the authority of the state and when may a citizen refuse to be obligated to it? How does the state achieve this obedience for instance, in a democratic setting? Is it through the use of the brute or coercive force of the military? Especially in the sense in which authority of the State to issue commands and, at the same time, to correlate the right to obedience has led to conflict between the claims of authority and of those individuals who say they do not feel any obligations to the State.

2.0 OBJECTIVES

It is expected that after this unit, the student should be able to:

- state the meaning of political obligation.
- explain why a citizen should be obligated to the state and vice versa?
- state how the state achieves this obedience?

3.0 MAIN CONTENT

3.1 Understanding Political Obligation?

In broad terms, obligation means to bind morally by some favour rendered or to legally constrain by contract or by duty. In practical terms, political obligation is the legal imposition of obligation on the citizen to obey the laws of the government which usually leaves the individual no option but rather containing a penalty in-case of failure (through the law). The implication of this is that states do not found rights entrenched in state laws and degrees, to be obeyed on force but to function as enabling laws or rules which impose an obligation to obey. For instance, the individual cannot decide whether or not to pay tax or not because it is non-negotiable expectation by the State from the citizen to do so. More over, the membership of a state is not like that of the social institution where one is not obligated or bound by its rules. However, the legal imposition of obligation on the citizens to obey State laws, however, is congruent upon the government acting justly or ensuring through its laws that just relations prevail among its citizen-body.

Thus, the premise of a citizen's obligation to the state is premised on convention and contract as explicitly stated in Rawls (1971) *A Theory of Justice*. The bane of this theory is based on an assumption about an imaginary group of future members of a proposed society who came together and proposed a social contract in which the participants or individuals (the rational contractors) choose or selected principles of justice that will govern them.

Accordingly, the *rational contractors* or the persons in the *Original position* of the proposed society or the constitutional convention agreed to be under a '*veil of ignorance*'. This '*veil of ignorance*' ensures that the individuals to the pact have minimal information about knowing their roles, status, profession (be it labourers, civil servant, a lawyer, medical doctor etc) prior the division of labour in the society. The essence is to ensure that experience enters into choice.

Scholars have argued that even in the most purely technical aspect of it, it is difficult to agree that in this fictive construct, the individual decision-maker, the party, 'makes choices in what is even constructively a 'sequence'. But for Rawls it is plausible especially considering that the supposed members of the convention, having selected their principles, would legislate on it before it becomes a 'constitution' prior application to individual cases in society (p.136). It could be said therefore that the *rational contractors* are likely to agree to a specific set of principles of justice which the bargain embodies such as: (a) the equal liberty principle and, (b) the principle of efficiency (i.e. it promotes efficiency)

believing that it will be applied impartially to every participant or anyone affected by it in order to sustain the basic structure of a well-ordered society or better still determine how basic goods of the society are to be distributed. The aim is justice and fairness in distribution.

However, since to have laid down the fundamental charter of such a society does not constitute the how and why or even if it is necessary that the aforementioned principles apply to individuals it becomes paramount to know the set of principles that the rational contractors are likely to agree to regulate the behaviour of members. The implication of this, in practical terms, is when institutional rules are to be obeyed. This implies that the rational contractors would enjoin those who have voluntarily accepted the benefits of a just co-operative scheme to bear the burdens associated with the stability of the scheme. Most importantly, given the possibility that a social arrangement may be just but with a dearth in the provision of public goods, the contractors are likely to consider another principle that may enjoin all to support the scheme/institution whether the individual has gained under the scheme/institution or not.

These set of principles Rawls adduced are a) *a principle of fairness and* (b) *a principle of natural duties.*

SELF ASSESSMENT EXERCISE 1

Discuss your understanding of Rawls conception of political obligation?

3.2 Principles of Fairness as Congruent to a Citizen's Obligation to the State

The notion of *fairness* defines a citizen's obligation to an institution or state. This principle is fundamental to Rawl's conception of justice because once a member has accepted the benefits of a mutually beneficial and just scheme that is based on social co-operation, that guarantees benefits only when everyone or nearly everyone co-operates, then one is bound by *duty of fair play* to do ones part. This is as against taking advantage of the free benefits by non-co-operation.

Broadly 'fairness' borders on some consideration, which is only relevant once a given distribution has been met. This definition presupposes satisfaction with some distributive end-result. However, this conception of 'fairness' as 'being satisfied with a distributive end-result' does not in any way specify what the consideration is given that 'fairness' embodies issues like: how fair was the bargain/contract entered into? And whether the relevant distributive criterion, was based on, ability or need? Based on this, it would seem that what a 'fair' bargain is in any given

distributive situation will be a function of the effect on participants or beneficiaries. The application of the *principles of fairness* in the distribution of the basic goods in the society is expected to be in such a manner that ensures justice (social justice) for all its members thereby eliminating arbitrary distinction between competing claims.

To therefore guarantee the fairness of distributive outcomes quite independently of the consent of the participants or beneficiaries some specified conditions must be present before a person can be said to be obligated to abide by the rules of the institution/state. The conditions are:

- (a) That all the future members of the proposed society typically must voluntarily accept (and must intend to continue to accept) the principles of “obligation” to be chosen.
- (b) That the already existing society must already have had its principle(s) of justice which should include the guarantee of the ‘rule of law’ embedded in satisfying the principles of justice.

In view of the above conditions, it is obvious that the ‘Rawlsian’ society is not merely individualistic, and in that sense conflict-free, which makes it difficult in fact to imagine when and how to ascertain the ‘voluntary acceptance’ of an aggregation of more or less equal individuals ‘of what constitutes the principle of fairness’? In view of this difficult situation, it becomes apparent that the *rational contractors* or the persons in the *Original position* would not want to be obligated to defend an institution that might be unjustly based on extremely burdensome institutional rules. A typical unjust state is a bankrupt state where government engages in white elephant projects or maintains outright irresponsible public services evidenced in the state not living up to the expectation in the provision of public goods such as national defence, good roads, health programmes, law and order. However, faced with the difficulty of ascertaining the ‘voluntary acceptance’ of an aggregation of individual’s two considerations become apt to ensure caution. The first is that the contractors should not lose sight of the fact that the principle of equal liberty served as a guide in choosing principles for individuals in the original position. To this end, it would appear apt to accord the individuals the liberty of not obeying institutions whose benefits they have not voluntarily enjoyed. Second, as a condition of institutional obedience, a police state may be instituted so as to regulate citizens’ behaviour through force/coercion (may be through the law). This is aimed at guarding against the unpleasant (but quite possible) consequences of revolutionary tendencies of some individuals.

Following from the above, it is pertinent to examine when an individual could be said to have the ‘voluntary acceptance’ of benefits received from enjoying the public goods (national defence, good roads etc) of the State involved in the principle of fairness? Voluntary acceptance of benefits could be said to occur according to Richard, (1971) “where there is some *mature option of choice*... with the intention and expectation of encouraging others to rely on you to do your part in bearing the burdens, so that they will be encouraged to do their part..... The implication of this, (in principle) is that no young child or even adult who is not financially independent, and thus capable of choosing his/her own life, is bound to his native country. This is because he /she have no mature option of choice between accepting and not accepting the benefits of the legal system. To this end, such an individual is at liberty to choose whatever country he pleases”.

However, this “*mature option of choice*” has been debunked practically on the grounds that it does not appear plausible given the expense of travel and the often stiff immigration requirements of most countries (Adeigbo, 1991). Despite this contrasting view, Richard maintains the optimistic stance arguing that as long as there is increasing rapidity of travel and communications between nations, growing availability of travel to more income classes, and the reduction of immigrant restrictions between nations... the possibility of real choice widens, and with it the applicability of the principles of fairness”.

But irrespective of Richard’s optimism, it appears that “voluntary acceptance” of public benefits/goods though stimulating still remains essentially unrealistic. The apparent realistic and genuine argument will be to argue that in as much as an institution or a state is logically committed to providing collective goods or public goods (national defence, good roads, health programmes, law and order etc) for its members/citizens, then the question of whether or not an individual member claims these benefits ‘voluntarily’ should not rear its head. More over, it is also obvious that the notions of ‘accepting benefit’ and ‘voluntariness’ are not divorced from each other in the context of institutional obedience based on the understanding that obligations (e.g promissory and contractual obligation) have to be voluntarily assumed in order to be binding. Infact, Rawls concludes that the average citizen has no political obligation per se since it is typically difficult to say, from the view point of average citizen, what the requisite binding obligatory act is. To this end, he maintained that each citizen has a natural duty (a duty derived from the principle of positive natural duties) to promote and support just institutions and arrangements. This is irrespective of the prior understanding of political obligation as a result of a mutually beneficial scheme of social co-operation or even as a duty deriving from “fair play” In sum, most importantly, it is expected that

the defining features of indivisibility (equal availability of public goods to all citizens) and non-excludability (collective goods should not be denied to any citizen) are strictly adhered to.

*These features of public goods will be explained better in unit four of this module.

SELF ASSESSMENT EXERCISE 2

Extensively discuss your understanding of fairness as a congruent principle to a Citizen's Obligation to the State.

4.0 CONCLUSION

This unit brought to bear how the state can achieve obedience from the citizen based on the principle of fairness and when may a citizen refuse to be obligated to it?

5.0 SUMMARY

This unit discussed the principle which accords the state right to extract obedience from citizens and vice versa.

6.0 TUTOR-MARKED ASSIGNMENT

- 1) Explain how the state can achieve obedience from the citizen?
- 2) Why a citizen should be obligated to the state and vice versa?
- 3) What are the proper limits of the authority of the state and when may a citizen refuse to be obligated to it?

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UNIT 2 PRINCIPLES OF NATURAL DUTY

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Principle or (precepts) of Natural Duty of Justice
 - 3.2 Principle of Natural Duties
 - 3.3 Advantages of the Principle of Natural Duties over Principle of Fairness
 - 3.4 Types of Duties
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

As a follow-up to the previous unit which addressed the State as a dominant social institution which seeks to be obeyed, this unit will explain what the principles of natural duties imply so as to know why a citizen should be obligated to the state?

2.0 OBJECTIVES

It is expected that after this unit, the student should be able to:

- state the principle of natural duties.
- state what constitutes a citizen's natural duty to a state.

3.0 MAIN CONTENT

3.1 Principle or (precepts) of Natural Duty of Justice

This principle conceives a citizen's support and compliance with just institutions as a natural duty. This principle rests on the fundamental distinction which Rawls (1971) makes between two distinctive principles: the principle of natural duties (which includes the natural duty of justice) and the principle (or precept) of natural justice.

This principle is based on the two principles of justice. In effect, where the basic structure of society is just, or reasonably just from the angle of a partial compliance (non-ideal) theory, then every individual in a state is bound to comply with the institutional rules. This principle is

established on the features that define the rule of law or the precepts of justice associated with the general administration of law.

The practice of the principles (especially the equal liberty principle) at any given moment it may be adopted at the constitution-making and legislative stages, for instance, in Nigeria- the National Assembly and House of Representatives, and when it is assented into law, it becomes the paradigm or reference point. Paradigms not only provide a framework for problem solving, they involve a series of other commitments. Put differently, for rule of law, once the paradigm is established, it constitutes some sort of restrictions on individual rights in the sense that the rights will be defined within the ambit of the rule of law for the regular and impartial administration of public rules. The essence of this '*justice of regularity*' is to constrain all those involved in the administration of law to act in a manner which will enhance the exercise of individual liberties. The general principle which serves as a rule or guide for the notion of natural justice is that judges interpret and apply the rule correctly, or that those who enact the laws and give orders in similar cases ensure that sanctions for law- violation should be proportionate to the crime. In effect, the rule of law depends not only on the provision of adequate safeguards against abuse of power by the Executive, but also on the existence of effective government capable of maintaining law and order as well as ensuring adequate social and economic conditions of life for the society.

The obvious advantages of this principle over the second arm of the principle of fairness which is more or less like it, is that it does not presuppose any act of consent or any voluntary act in order to obligate. In sum, the natural duty of justice, Rawls contends, is 'the primary basis of our political ties to a constitutional regime or rather that it is the principle which binds citizens generally to their political institutions'.

SELF ASSESSMENT EXERCISE 1

What constitutes the fundamental tenets is the contention of this principle?

3.2 Principle of Natural Duties

This principle (like other principles for individuals) is an important component of the notion of right given that it helps to define various interpersonal relationships and to explain how these relationships arise. It derives its content in part from the aforementioned principle (principles of justice) irrespective of Rawls insistence that the principles of justice are principles for the design of institutions and practices, and not principles for individuals.

What is particularly useful for our purpose in view of the contention of justice as fairness (earlier conceived in relation to political obligation as a duty deriving from “fair play”), is that the *fundamental natural duty, is the duty of justice*. The rule of this duty expects citizens to support and comply with just institutions already in existence. And, where no institution is in existence, to establish such institutions if it can be achieved without much inconvenience.

Essentially the natural duty of justice, Rawls contends, is the primary basis of our political ties to a constitutional regime or rather that it is the principle which binds citizens generally to their political institutions. From this analysis, one fact is immediately obvious and that is, that the principle of the natural duty is premised on the two principles of justice. So, it could be argued that where the basic structures of society have been validated with just rules, or even as just as can reasonably be, then all citizens are bound to comply with the institutional rules.

I think a parallel can be drawn between the first principle and the latter. However, to say a parallel line can be drawn is not to suggest any homologous (agreeing: of the same essential nature, corresponding in relative position, general structure, and descent) relationship between the two though no logical difference exists between what the two principles and that of individuals demand.

So far, the obvious advantages of this principle are evidenced in first, the agreement with the use of ‘duty’ in connection with status or role (e.g. the relationship between the employer and the employee). This advantage brings to the fore the coercive feature of the concept of duty in relation to certain social ties or interpersonal relationships (like the duty of non-interference with property of another) which may involve their performance being enforced. Second, this principle does not presuppose any act of consent or any voluntary act in order to obligate. Third, it also, applies to everyone irrespective of their institutional relationships.

However, the adoption of these principles is dependent on how rigorous or convincing the natural duty of justice will be to other natural duties. But given that Rawls did not provide any priority scale for natural duties to be applied except that negative natural duties precede the positive duties in concrete terms therefore, the natural duties of malfeasance (especially of an official illegal deed or evil-doing which one ought not to do) and non-malevolence may supersede the duty to establish and advance the state/institutions. Thus, although the natural duty of justice likes other duties, appears convincing, however, the task it assigns in relation to the law in any given situation is a *prima facie* one i.e a task that does not involve too great a cost either to oneself or to someone else.

SELF ASSESSMENT EXERCISE 2

Discuss how the natural duty of justice is the primary basis of our political ties to a constitutional regime.

3.3 Advantages of the Principle of Natural Duties over the Principle of Fairness

So far, some advantages are obvious.

1. This principle (which appears like the principle of fairness which defines obligations), does not presuppose any act of consent or any voluntary act in order to obligate.
2. It also, applies to everyone irrespective of their institutional relationships.
3. This principle agrees with the use of 'duty' in connection with status or role (e.g. the relationship between the employer and the employee).

SELF ASSESSMENT EXERCISE 3

List the advantages of the principle of Natural Duties over the Principle of Fairness

3.4 Types of Duties

Rawls acknowledges the existence of several natural duties classified into two main types:

1. **Negative duties:** These duties negatively require individual members of a state to refrain from performing bad acts. Examples of this class of natural duties are principles of non-maleficence (forbidding killing or causing unnecessary suffering) and non-malevolence (which proscribes having evil, malicious intentions towards others).
2. **Positive natural duties:** These duties enjoin individual members in a state or an institution to perform good actions. Put differently, the principle of positive natural duties is related to the conviction that each citizen has a natural duty to promote and support just institutions or arrangements, which is predicated on the performance of good actions. For instance, the natural duty of mutual aid, which may require, for example, that a person should do a great good to another person if such a good can be brought about at little cost to oneself. In addition to the duties of mutual

aid and non-malevolence is the duty of non-interference with the property of another and guidance of, the action of highly irrational or the duty of care as regards non-rational persons such as the insane and children which every citizen is required to perform (if they can) so as to avoid unnecessary bottlenecks.

It is important to state here that though Rawls did not particularly stress any distinction in relation to positive and negative duties, however, the distinction as regards negative natural duties normally preceding positive duties cannot be overemphasised given that it will facilitate the priority problem between various duties.

Sequel to the above duties, Rawls further alludes to the “duty to oppose injustice” which borders on justifiable civil disobedience (this will be explained later in unit 5 of this module). The ‘duty of opposition’ obviously from the understanding of duty in the context of institutional rules and as a principle of various interpersonal relationships presupposes the possibility of the exertion of coercion. Coercion in this case, by implication is the direct limiting of freedom as curtailed (in the exercise of duties) by force. Aligning the idea of duty with the idea of coercion is therefore not unusual based on the likelihood of enforcing or imposing the performance of some duty on say: the tenant to the landlord in respect of rents, the duty of the debtor to his creditor in respect of loans etc to mention a few. Based on these examples, it is apt to say that a duty essentially is something required of someone whether he or she feels like it or not.

SELF ASSESSMENT EXERCISE 4

Explain the types of duties there are.

4.0 CONCLUSION

This unit explained what the principles of natural duties imply. It also explained that there is no major distinction between *the principle of natural duties* (included in this is the natural duty of justice) and *the principles/precepts of natural justice*. Very importantly, it brought to bear the fact that the fundamental natural duty is the duty of justice which requires citizens to support and comply with just institutions where these are already in existence, and where not, to establish such institutions it being burdensome.

5.0 SUMMARY

This unit addressed the meaning of the principle of natural duties and the types of duty as well as the advantages.

6.0 TUTOR-MARKED ASSIGNMENT

1. What constitutes a citizen's natural duty to a state?
2. Extensively discuss your understanding of the principle of natural duties in line with its two distinctive principles.
3. State the advantages of the principle of natural duties over that of fairness.

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UNIT 3 THE MORAL CONSTRAINTS OF POLITICAL OBLIGATION

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Definition of Morality
 - 3.2 Conceptions of Morality
 - 3.3 Understanding Prima Facie Moral Obligation
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

It is pertinent to examine the moral constraints of political obligation based on the notion that the obligation to obey the law of a State is not solely determined by the law itself. Thus, this unit will address what morality is and its context in a political system

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to:

- define morality.
- list the criteria that constitute the principle of a moral action
- identify the various conceptions of morality

3.0 MAIN CONTENT

3.1 What is Morality?

Morality is defined as ‘the quality attributable to human action by reason of its conformity or lack of conformity to standards or rules according to which it should be regulated’. Based on the claim that political obligation ultimately rests on moral reasoning, ‘morality’ as it relates to the context of political obligation will be defined in line with the general criteria which have emerged from an examination of the various prescriptive definitions of ‘morality’ by W.K. Frankena (1966). According to him, individuals X’s action or principle of action is a moral one if it satisfies the following criteria:

- (a) X takes it as prescriptive.
- (b) X universalises it.
- (c) X regards it as definitive, final, overriding, or supremely authoritative.
- (d) It includes or consists of judgments (rules, principles, ideas, etc) that pronounce actions and agents to be right, wrong, good, bad, etc., simply because of the effect they have on the feelings, interests, ideals, and so forth, of other persons or centres of sentient experience, actual or hypothetical (or perhaps simply because of the effects on humanity, whether in his own person or in that of another).

SELF ASSESSMENT EXERCISE 1

What is morality? Identify Frankena's principle of moral action criteria.

Based on the above criteria, it is apt to examine the two main conceptions of morality. This is to ascertain if at all, these conceptions will in any way facilitate the understanding and relevance of morality in the context of political obligation.

3.2 Conceptions of Morality

(a) Individualist Ethics or Subjectivism and Individualism (IE)

This conception makes morality a matter of authentic personal choice and decision. This existentialist view is the most extreme especially as they reject the universalisation requirement on grounds that man's choices are freely (existentially) made and every existential situation is unique. Ideally, no justification is required for man's choices beyond the fact that they are existentially made hence if man's choices cannot be universalised, neither can they be prescribed. The extreme view, then, can be said to have failed to satisfy Frankena's prescriptive criteria (a) and (b) above.

On the other hand, Vernard Mayo and John Ladd as well as Hare and Nowell-Smith argue that one's principles are moral as long as one conceives them to be over-riding as well as the willingness to see others take them as supreme. This position provides morality with a social dimension in that it entails legislating for others while retaining the content and form IE which are relative to what the individual decides to accept or reject as a way of life.

The key objection and criticism of the IE is worth mentioning. This is related to its refusal to accept that *content* in its existentialist form is intrinsic to morality. The implication of this in its other words is sort of saying that a moral principle can have any content whatsoever and that

any principle of action (e.g. stand up and walk or manhandle the first person you encounter in the morning) can be a moral principle. This conception of morality Warnock (1966) warns would have the “obviously unacceptable consequences that everyone necessarily, however, bizarre the principles may be, must be said to be regularly guided by moral principles’. More over, the IE seems to make nonsense of the central question ‘why should I obey the law?’ This is as it relates to, for instance, an individual accepting obedience to the law as the supreme authoritative principle, it would therefore be out of place to enquire why he or she should live or abide by such a principle. Also, on the contrary, if he or she believes ‘obedience to the law’ does not constitute morality or a moral principle, there would still be no use asking ‘why obey the law’?

(b) Trans-Individual Ethics (TIE)

As implied in the name, this conception of morality is beyond the individual hence in the succinct terms of its proponents such as Hart, Rawls, Bair and Margaret Macdonald among others this conception of morality is ‘a definite social trans-individual element’. To this end, Hart (1973) insists on the ‘need to understand morality as a development from the primary phenomenon of the morality of a social group. In effect, the existence of a moral point of view shared commonly by those who hold the same factual beliefs is the basic position of TIE. In other words, when one is making a judgment in the TIE, one is making two claims:

- (a) That one’s judgment is valid for others, and
- (b) That ones judgment or decision is corrigible by reference to the judgments of others.

SELF ASSESSMENT EXERCISE 2

Mention the two conceptions of morality and there claims?

3.3 The Basic Difference between the Two Conceptions

The first basic difference is the insistence by the TIE theorists that the moral point of view must be socially and materially defined. This is reflected in its minimal concern for the common good, for social togetherness, for harmony(Frankena,1965).The TIE conceives morality as a mode of human guidance, that logically involves a definite social content be it social harmony, the common good, justice, efficiency, or, in general, consideration for others. It is this common good, justice etc that constitutes the content of the said moral point of view.

An important advantage, however, of the TIE conception of morality, is that it allows one to reason from statements of fact to prescriptive (normative statements, from factual- “Is statements to moral-ought statements”. If one accepts the moral point of view or social element as a necessary and perhaps sufficient condition of morality, then all one need show is that a given principle of action is an instance of TIE. In practical terms, this means that if one accepts for instance that by abiding by the laws of the state he or she will be promoting harmony in the society, then it behooves on one morally to do so.

SELF ASSESSMENT EXERCISE 3

Are there any differences between the two conceptions?

3.4 Understanding Prima Facie Moral Obligation

Based on the above analysis, we shall now ascertain if at all, these conceptions will in any way enhance the understanding of the relevance of morality in the context of political obligation. This is alongside the arguments of Hart(1973) and Rawls(1971) that justice or the existence of just relations among individuals in a cooperative venture or institution is reason enough for the duty of institutional obedience. According to Rawls, as alluded to in the previous unit, the principles of fairness or a ‘fair’ bargain in the distribution of the basic goods in the society is expected to be in such a manner that ensures justice (social justice) for all its members so as to eliminate arbitrary distinction between competing claims.

More over, it will serve to justify the ideas of liberty, equality and reward for contributions to the common advantage which the principle of justice encompasses. To this end, a citizen of a state is expected to obey the government of the state. Based on this standpoint, the obligation of the citizen to obey the laws of the state is, however, congruent upon the government acting justly through its laws that just relations prevail among its citizen-body. In specific terms, this kind of obligation is usually termed *prima facie moral obligation*.

The phrase *Prima facie* specifically was used first by Ross* in the classification of duties. In effect, prima facie has been used in relation to Political Obligation because an obligation to obey law is couched in an obligation to which some weight is attached (Peter, 1973). This is as it relates to an obligation which according to Ross (1930) “is not expressing a duty but something connected with duty”. In effect, ‘the ultimate factor in moral decisions and actions is not necessarily the ‘good’ act, but rather in the performance of duty which transcends the expectation of pleasure or happiness’. Some of the examples of prima

facie duties which are based on moral relations are duties of fidelity, of reparation, of gratitude, of justice, and of self-improvement. In other words, when an individual repays a debt s/he redeems it more importantly based on the realisation that to incur a debt is to place oneself under an obligation, rather than the hope to maximise the good of the specific action.

Sequel to the above position, Ross further argues that “prima facie duty’ or conditional duty is a brief way of referring to the characteristic (one which is different from a proper duty) which an act has in virtue of being a certain kind (the act of promise keeping), of being an act which would be a duty if it were not morally significant at the same time of another kind”. This argument has also been contested by scholars who disagree with the phrase ‘conditional duty’ as being able to stand in for ‘*prima facie duty*’ on the strength that the former alludes to a conditionality(a dependent variable) which must be present before the performance of *prima facie* duty which is not always the case (Adeigbo, 1991). This is premised on the feature of prima facie duties which is to exist irrespective of the circumstances within which they might occur. Based on the foregoing contentions, it is out of place to suppose that a prima facie duty is binding only as a last resort i.e. when there is no other duty or obligation.

What can be adduced at this point, is that unless there is cause for pessimism about an obligation being voided by one party there is no justification not to uphold the obligation. In effect, there is always a presumption in favour of carrying out and performing an act which falls within the description of prima facie duties until the obligation countervailed by a more stringent obligation. In view of all this, the moral obligation to obey the law, therefore, should be understood as meaning a presumptive (to take as true without examination or proof or to take for granted) moral obligation. This presumption is quite consistent with maintaining that if the government passes too many laws in suspicious circumstances with dubious objectives and motives, or enacts laws that are manifestly unjust, it is then dependent on the people to exercise their right to resist tyranny and injustice definitely will supersede their duty of obedience.

It is important for the student to take cognizance from the foregoing contentions the fact that *prima facie duties* are not absolute or even “actual duties”. These are authentic, conditional duties that must be performed. The meaning of this is that while members are conscious of the principles of fulfilling a pact/promise, there are situations when the members may be justified not to perform these duties. Hence, that an act is or becomes an actual duty is not dependent merely on the act being

within range some general classification, but on complex variables that are not abstract in nature.

In sum, a *prima facie duty* is a duty that one ought to perform *ceteris paribus*” i.e. other things being equal. Meaning in essence, that unless there is some reason for being pessimistic about an obligation being voided by one party then the obligation holds and the other party is under obligation to fulfill his own obligation.

SELF ASSESSMENT EXERCISE 4

Explain your understanding of *prima facie* moral obligation.

4.0 CONCLUSION

The unit examined the moral constraints of political obligation based on the notion that the obligation to obey the law of a State is not solely determined by law itself.

5.0 SUMMARY

The unit examined what morality is in relation to political obligation, the conceptions of morality and the analysis of what *prima facie* entails in the context of a political system.

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by morality?
2. Explain your understanding of *prima facie* moral obligation.
3. Explain and evaluate the conceptions of morality.

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UNIT 4 PUBLIC/BASIC GOODS

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Analyzing public Goods?
 - 3.2 Types of Public Goods
 - 3.3 Features of Public Goods
 - 3.4 Basic Principles in Its Distribution
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit will address the provision of Public Goods as the most fundamental benefits of the state to the citizens in the context of a political system

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to:

- define public/basic goods.
- itemize them as stipulated in the constitution
- state its basic features

3.0 MAIN CONTENT

3.1 Analysing Public/Basic Goods

The essential attributes of a state as a contracted human organisation/institution is its provision of public goods. These public goods are fundamental benefits to the citizens such as national defence, good roads, health programmes, law and order which a state provides. In other words, if a state fulfils its obligation in the provision of these goods then it would have achieved the goals and objectives that are essential to human development and happiness.

However, the pertinent question now is if the state is justified in the provision of public goods?

A state rendering/ensuring the provision of these goods is justified based on the state as a social contract or charter. Thus, given that the state exists mainly for the welfare of the people, it behooves on government as an agency of the state based on the principle of justice to keep part of the charter just as is expected of the people. Accordingly, these goods or objectives should be stated and specified in the constitution with the end purpose being justice and the realisation of the common good “must be of such quality and character as will evoke an abiding sense of patriotism and loyalty from the citizens of the state, and must be such as will, in their execution, benefit all the citizens substantially and without exception (Awolowo, 1981:94). Thus, even though much value has not been reposed on the provisions of chapter 11 of the 1999 constitution based on the fact that they are neither fundamental nor justifiable in the courts (at least not directly) if the state fails in the provision of these essential services, citizens can seek redress in court. However, since it is ‘the substantive political manifesto of the whole country’ all the provisions remain ideals. More over, it is important to state that the non-justifiability of the social objectives of the state not only indirectly makes a government ineffective but constitutes a shortfall on democratic principles. Thus, it is apparently wrong to ‘provide for the justifiability of the duties laid on the people towards the state and for the non-justifiability of the (social) obligations which the state owes to the people.

SELF ASSESSMENT EXERCISE 1

Is the state justified in its provision of public good?

3.2 Types of Goods

The basic socio-economic imperatives or normative social objectives to be achieved by the state are: primary and secondary.

1) The primary Imperatives of the State

The state is contracted as having the monopoly of unconditional constraint hence its ultimate goal is the maintenance of public peace and order and the provision of security internally and externally. The state achieves this through the political institutions i.e defence and security agencies that control the use of force within the territorial setting via law enforcement and warfare (not of interest here). As regards the former, the various units/individuals within a state maintain peace and protection of each individual group’s interest against other individuals or groups through the legal system. The assigned functions of the armed forces are also stipulated in section 217(1) of the 1999 Constitution: namely,

- (a) Defending Nigeria from external aggression;
- (b) Maintaining its territorial integrity and securing its borders from violation on land, sea or air;
- (c) Aiding civil authorities to help keep public order and internal security when called upon to do so by the President, subject to such conditions as may be prescribed by an Act of the National Assembly; and
- (d) Performing such other functions as may be prescribed by an Act of the National Assembly. The Constitution also in section 218(1) states that the powers of the President (who is expected to be a civilian elected into office with the provisions of the same document- however, imperfect it may be) as Commander-in-Chief of the Armed Forces of the Federation shall include power to determine what roles and functions they are expected to perform as the country's armed forces.

The essence of ruler ship under due process therefore is indicative of a generally shared aspiration towards safeguard.

2) The Secondary Imperatives of the State

These are socio-economic in nature. This is specifically contained in the Fundamental Objective and Directive Principles State Policy as expressed in chapter 2 13 and 24, of the 1999 constitution. The economic objectives include *inter alia*:

S.16 (1)(a): harness the resource of the nation and promote national prosperity and an efficient, dynamic and self reliance economy;

S.16 (1)(d): without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect right of every citizen to engage in any economic activities outside the major sectors of the economy;

S.16 (2) (d): that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions and unemployment, sick benefits and welfare of the disabled are provided for all citizens.

Though the economic/material elements are important, the state transcends its economism/ materialism to the non-material/spiritual aspects of the aims and objectives of a state which are equally important. These are the:

Social objectives:

S.17 (2) (a): every citizen shall have equality of rights, obligations and opportunities before the law;

S.17 (2) (b): exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community, shall be prevented;

S.17 (3) (a): all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;

S.17 (3) (b): conditions of work are just and human, and that there are adequate facilities for leisure and for social, religious and cultural life;

S.17 (3) (e): there is equal pay for equal work without discrimination on account of sex, or any other ground whatsoever.

Education objectives:

S.18 (3) (a): free, compulsory and universal primary education

S. 18 (3) (d): free adult literacy programme.

The fourth and final objective of the state is *political* given that citizens have political rights as well. Moreover, it stems from the principle of *natural justice* which posits that political rights should be respected and treated as sacred and sacrosanct in order to maintain the unity and integrity of the state.

SELF ASSESSMENT EXERCISE 2

State the primary imperatives of a state.

3.3 Features of Public Goods

The fundamental benefits of public goods mentioned above will expectedly be benefiting all the citizens based on its features. To John G. Head there are two defining features of public goods namely:

1. *Indivisibility:* This feature relates to goods which, by their character, cannot be shared out among their beneficiaries e.g National defence. In effect, in as much, as the government desires to defend the country against an attack, then *all* the citizens in that country are being defended. The defence of the country cannot be a defence of a section of the country or a section of its population.
2. *Non-excludability.* The non-excludability feature means that collective goods are such that, if they are available to some of the members, they *cannot* be denied to others in the group (whether

or not these ‘others’ have cooperated to produce them). Thus, since additional consumption does not diminish the amount (of defence) available to others, it would be unwise to exclude anyone. Essentially therefore, in as much as a state is logically committed to providing collective goods for its members given the aforementioned features of collective goods, then the issue of whether or not an individual member claims these benefits ‘voluntarily’ should not constitute an issue in the context of institutional obedience. This is because obligations (especially promissory and contractual obligations) have to be voluntarily assumed in order to be binding.

SELF ASSESSMENT EXERCISE 3

State the main features of public goods?

3.4 Basic Principles in the Distribution of Basic Goods

The important issues therefore to our discussion are to determine what basic principles determine how the basic goods are distributed in the society. To Rawls the distribution theories are: First, that each person is to have an equal right to extensive basic liberty compatible with a similar liberty for others. This in essence, means that where the basic structure of society is just to a reasonable extent of partial compliance, then everyone is bound to comply with the institutional rules irrespective of their institutional relationships.

Second, social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage and (b) attached to positions and offices open to all.

The second principle applies, in the first approximation, to the distribution of income and wealth and to the design of organisations that make use of differences in authority and responsibility and chains of command. Thus, while the distribution of wealth and income need not be equal, it must be to everyone’s advantage and at the same time, positions of authority and offices of command must be accessible to all. This means in effect, the acknowledgement of the positive role of the State and the use of law for the attainment of certain economic and social ends. To this end, it has been maintained that the issue of the free play of economic forces is no longer accepted by any contemporary democracy but the universally accepted right of every citizen to a minimum standard of living as a condition of liberty and human dignity even though the implementation of this ideal still lags far behind the aspiration (Friedman, 1971).

These propositions are very apt in Nigeria given the provision in the Nigerian 1999 constitution in chapter 11, section 16(2) which outlined the national economic and social objectives, which should guide the action of the state including their policy thrust towards ensuring: (a) the provision of a planned and balanced economic development. (b) That the material resources of the nation are harnessed and distributed as best as possible to serve the common good. (c) That the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or group. (d) That suitable and adequate shelter, suitable and adequate food, reasonable national minimum wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens. The provisions presuppose in effect, that the State strives to organise the society in such a way that the much cherished fundamental rights and the liberty of the citizen will have a meaning. In other words, that each person must be entitled to equal opportunities to a share in the wealth of the nation by way of equal opportunity to education, equal opportunity to political; power, equal opportunity to self fulfillment. But, all could come to naught if socio-economic services are not well administered or distributed according to the principle of justice and equality as is evident in the present situation where the rate of impoverishment within families has been eroding over the last seven years, perpetuating family poverty and further marginalising women and children. A predicament that has been blamed on the economic reform agenda with anchorage on the dictates of the Washington Consensus: privatization, deregulation and minimising the role of the state.

However, beyond the generally acceptable minimum premised on Rawls distribution theory divergences still remain. Robert Nozick (1974) brings to bear John Locke, Herbert Spencer and the laissez faire capitalism in his argument for the minimal state whose function will be limited merely to the punishment of offenders. In other words, those who violate rights not to kill, assault, coerce, not to have someone's property taken or destroyed etc. This heralded the development of an '*entitlement theory*' which posits that 'if each person's holdings are just, then the total set (distribution) of holdings is just as a conception of justice. This theory is against the re-distribution of wealth through the State machinery, because for instance, the taxation of earning from labour is at par with forced labour.' By and large Nozick contends that there is nothing like the goods of the society but goods of particular individuals within the society. Thus, the state has no right to make any re-distribution of those goods.

From the foregoing, while the economic prosperity (material elements) of citizens as goal is important, the state should transcend its economism

or materialism to the non-material/spiritual aspects of the aims and objectives of a state which are equally important.

Since, citizens do not have only social and economic rights, the fourth and final objective of the state is *political* given that citizens have political rights as well. The principle of natural justice implies that men's political rights should be respected and treated as sacred and sacrosanct in order to maintain the unity and integrity of the state. To discharge one of its own solidarity and survival every state must recognise, and guarantee to all its citizens the fundamental rights of man. But restraint can be instituted for the purpose and freedom of others in situations of war, emergency, epidemic, or the execution of a judicial decision.

SELF ASSESSMENT EXERCISE 4

Explain the principles involved in the distribution of basic goods.

4.0 CONCLUSION

The unit explained the essential attributes of a state in its provision of public goods. Also, it explained that beyond the provision of these goods there should be principles that should serve as guide.

5.0 SUMMARY

In this unit, we addressed the concept of public goods, its features and principles.

6.0 TUTOR-MARKED ASSIGNMENT

1. State the primary imperatives of a state.
2. State the main features of public goods?
3. Explain the principles involved in the distribution of basic goods.

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UNIT 5 CIVIL DISOBEDIENCE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Analysing Civil Disobedience
 - 3.2 Civil Disobedience not an Act of Law Violation
 - 3.3 Features of Civil Disobedience
 - 3.4 Civil Disobedience as an Act of Law Violation
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit will address stringent considerations that may over-ride the moral obligation to obey the law-as a form of protest known as civil disobedience in the context of a political system. This unit not only defines civil disobedience but highlights the set of criteria for deciding

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to:

- state what constitutes civil disobedience
- specify how an act of disobedience to law may not constitute civil disobedience
- state also when an act is properly an instance of civil disobedience
- state the basic features of civil disobedience

3.0 MAIN CONTENT

3.1 Analysing Civil Disobedience

It was Peter Singer (1973) who argued that “for whatever reasons there are for obeying the law in any society, there may be stronger reasons against doing so in particular cases”. The obvious implication of this is that an individual or citizens political obligations are not only not absolute but closely tied with the related notions of dissent and of protest. To this end, citizens or inhabitants of a State can embark on a massive act of civil disobedience aimed at resistance against government policies/ acts. These protests sometimes are directed, not against a law as such but against a policy or a decision of government

probably because such decision undercuts basic political rights or violates a shared conception of distributive justice or both.

In the light of the above, many scholars, especially Mohandas Ghandi (1961) have maintained that civil disobedience is an inherent right of a citizen” without which the citizen is less than a man (or woman)”. He argues further that, “unless a citizen can insist that s/he has a moral right as a moral being to disagree with his/her government anytime it acts unjustly then his or her moral status is degraded”.

It is for this reason that it becomes essential to distinguish between civil disobedience and direct action. Direct action according to Bedau (1961), is a type of political protest in which the dissenter uses his own body as a lever to pry loose the policy of government. The example of a direct action is evidenced in the self-incineration of the Buddhist monk or his hunger strike in protest against some government practice or policy. Civil disobedience is used in most cases in relation to anything from constitutional test cases and such forms of protest as non-cooperation, hunger strike, industrial strikes and self-immolation to aiding the escape of a criminal.

Direct action can be likened to direct violence, which, directed against authority, is described as rebellion, revolt, or even revolution. And, these (rebellion, revolution-Marxist or French revolution or better still the revolution of the nihilists of contemporary society etc) are modalities of protest against structural violence (which is a property of social institutions and which denies the individual the possibility of self-realisation) or direct violence where the latter is acts carried out by instrumentalities of the government. This is why direct violence like direct action, whether structurally warranted, or alternatively directed against repressive structures, is in the final analysis, self-defeating. Infact, the belief among scholars that change can occur only through violence has been criticised on the grounds that “violence is only one modality of action and there is no reason it should be conferred a peculiar logical status” (Raymond Aron cf Dudley,1975:8). In effect, violence, thus, is not self-justificatory hence its use has to be justified and this can only be done when all other avenues of effecting change have been exhausted.

It is clear from this analysis that both are distinct forms of protest because direct action involves the violation of law while civil disobedience does not.

SELF ASSESSMENT EXERCISE 1

Discuss your understanding of civil disobedience especially its distinction from direct action.

3.2 Civil Disobedience Not an Act Of Law Violation

The above argument presents a plausible contention that civil disobedience does constitute law-violation. This is essentially based on the argument of some scholars that there may be situations that bear no connection between the law which is *de facto* disobeyed and the decision or policy which is the reason for the protest. In this case, the disobedience becomes largely symbolic i.e. a law is disobeyed in order to protest the decision or policy under reference. To this end, they contend that to say that civil disobedience constitutes an act of law violation is unfounded based on the following fundamental arguments.

- a) That there is no crime known as ‘civil disobedience’. This is because for there to be a crime, there needs to be an area of human conduct prohibited or under pain of sanction by rule of law. However, the act of civil disobedience does not fall under this ambit based on the requirements. Moreover, under the section of criminal code, there is no provision of civil disobedience as an offence. Agreeably, though the civil disobedient might be arrested in the course of a protest march and subsequently charged to court but obviously it is never for committing civil disobedience but with trivial cases as illegal occupation, traffic obstruction, holding a public parade without permit or with violating some incidental law(Adeigbo,1991).

Second, although there may be some atom of truth that an individual’s act of protest may violate some valid law such as trespass of law however, Ronald Dworkian still contended that an individual’s act of protest should not be adjudged illegal given that it does not have the usual selfish, dishonest and clandestine intent normally associated with criminal violation of the law. This in view of the fact that the act of protest is not like the listed group of law violations considered as criminal as evidenced in cases associated with arsonists, rapists, kidnappers, cheats and murders who obviously disobey the law. Based on this civil disobedience does not constitute law-violation because the object of protest in most cases is not against a law but a policy or decision. In effect, there is no gain saying that civil disobedience simply as an end itself does violate the law.

In effect, for a group of people to possess legitimate political authority, the presupposition is that they have right or are permitted, provisionally at least to define what constitutes legality or illegality within the scope of their authority. But the converse is not true, in the sense that it is not every law violation that constitutes an act of civil disobedience. For instance, people who violate traffic laws or trespass are not necessarily civil disobedient. Moreover, there are cases of illegal action as evidenced in invalid testamentary acts or invalid marriages which are not in any way acts of political protest much less civil disobedience.

Consequent upon the above position, it is clear to an extent that if a protester must disobey or violate a law in civil manner, then, the law that he or she disobeys must have sanction of punishment attached to it. So, to ensure that civil disobedience constitutes an act of law violation, government, technically might not rest on its oars hence there is the probability of a law prohibiting civil disobedience being enacted in line with penal laws. However, given the liberal-democratic character of most modern states (Nigeria inclusive) and the constitutional guarantees of the civil liberties of free speech, free assembly, and freedom of dissent, any law purporting to prohibit civil disobedience would be unconstitutional.

SELF ASSESSMENT EXERCISE 2

Discuss your understanding of how civil disobedience does not constitute civil disobedience.

3.3 Features of Civil Disobedience

1. It is a protest tool. In line with most of the literatures on civil disobedience which agree with the protest-element (Carl, 1964; Bertrand cf Bedau (1961)) contend that the over-riding aim of those who engage in civil obedience acts is geared towards making an effective protest through recurrent reporting of the reasons for their action so as to either open grave issues to the public debate, to register deep concern and vehement objectives". This kind of publicity becomes possible through the popular form of protest which takes the form of appeal, address and propaganda "about a change in the law or policies of the government contrary to good public policy" (Rawls,1971).

Although this feature is agreeable to many theorists, however, the caveat borders on whether the 'protest-feature' is an end in itself or rather as part of an effort to achieve social change/ social objective. To nip the controversies in the bud, Howard (1968) specifically believes that civil disobedience should be "geared

towards a vital social purpose that may be achieved either by violating an obnoxious law, protesting an unjust condition or symbolically enacting a desirable law or condition". Moreover, given that human purposes and activities do not automatically harmonise with one another, then one cannot, deflect the possibility of lack of congruence not only in patterns of reasonable or unreasonable disobedient behaviour but equally regarding aims.

2. It is public: This feature is essential because (a) it brings to the fore the fact that the civil disobedient is not a covert plotter contemplating toppling a constituted authority. (b) It is not in any way like other acts of civil disobedience e.g the common cases of crime mostly conducted under concealment. (c) It brings to public awareness the nature and direction of the protest. (d) Fundamentally, it demonstrates the communal or civic character of any protest. Consequent upon this, it would therefore amount to giving the dog a bad name to hang it if peradventure government agents apprehend a group of citizens or their representatives under the ploy that they were involved in civil disobedient acts. This would be an aberration bearing in mind that their acts cannot be concealed from the appropriate authorities since from the outset they were notified in advance of the time and of the place/venue which is always open to public glare.

3. It is non- violent. This non –violent character according to theorists like Thoreau, Gandhi, Martin Luther King and Ralph Abernathy among others, just as the name presupposes the word 'civil' encompasses features like political, public and non-criminal. The non-violent feature is paramount for the protesters in their quest to appeal to national conscience especially based on Luther's admonition that violence "destroys community and makes brotherhood impossible because it does not leave society members dialoguing with one another" the non-violent, polite attitude comes into play so as to re-assure a distraught public that they need not live in fear for safety and security of their property. By and large, it is clear that the civil disobedient does not contemplate a violent overthrow of the government given the non-violent feature. In effect, the civilly disobedient should not violate the same law that is being protested. This is given the fact that the object of protest may not be a law or anything having the form of law, it would be ridiculous to suggest that the civil disobedient should commit treason or murder while protesting against (treason law) or challenge overly harsh death penalty laws. Rather the civilly disobedient achieves the main objective

by the violation of accidental laws (such as trespass laws or traffic regulations) which involves the violations of a valid law.

4. It is conscientious act and yet politically motivated. Theorists such as Bedau, Carl Cohen and Rawls among others stress that the conscientious nature of a decision to embark on civil disobedience are in two senses: First, that an act of civil disobedience is conscientious in the sense that it is performed from the principled and deeply held convictions of the protester. This is in relation to the fact that the civil disobedient (in violating the law) believes that what is done is right even if it is conceived as illegal.

Second, civil disobedience is also conscientious in relation to the fact that the civil disobedient needs to be someone who is already aware of the political legitimacy of the government in lieu of the quest to press for claims within the constitution. And given that all things are not always equal: even when parliamentary issues and debates may appear to be free enough; however, the majority always seems to vote along the party lines. This default not only obstructs but appears inadequate despite political and legal procedures being constitutionally guaranteed. It is however, important to note that the conscientious assertion does not seek to justify disobedience to law on the fact that a given law is incompatible with one conscience. This is apt given Hook's warning that conscience is a dangerous guide to principled political peace workers because of the possibility of taking totalitarians in tow. However, it has also been argued that the "conscientiousness" of the civil disobedient does not according to Bedau(1961), refer to weighing the consequences for everyone of obeying an objectionable law against the consequences of disobedience.

5. It has also been described as a politically motivated act. The political act could be construed in a way that those who employ civil disobedient strategies will be seen as persons who are concerned with the institutional frame-work of rule in the state or persons who seek a re-statement of decisions. The 'political act' argument is, of course, unobjectionable but trivial as there is no clear distinction between civil disobedience and other forms of political protest. However, Rawls' argument for describing civil disobedience is instructive. He contends that "civil disobedience is a political act not only in the sense that it is addressed to the majority that holds political power but also because it is an act guided and justified by political principles of justice which regulate the constitution and social institution generally. In justifying civil disobedience one does not appeal to principle of

personal morality or to religious doctrines, though these may coincide with and support one's claims; and it goes without saying that civil disobedience cannot be grounded solely on group of self-interest. Instead one invokes the commonly shared conception of justice that underline the political order... By engaging in civil disobedience a minority forces the majority to consider whether it wishes to have its actions construed in this way, or whether in view of the common sense of justice, it wishes to acknowledge the legitimate claims of the minority". In sum, civil disobedience as a politically motivated act is all about the continuation of government outside of normal politics in as much as acts of civil disobediences are engaged in for political purpose, sanctioned by political considerations and guided by political principles.

Following from the above arguments, civil disobedience may be defined as a non-violent protest which consists in the deliberate and public violation of, at least, a presumptively valid law or some policy of decision of the government generally thought to have the force of law; conscientiously committed (obviously as the last resort) as well as a politically motivated act.

SELF ASSESSMENT EXERCISE 2

Discuss the features of civil disobedience.

3.4 Civil Disobedience as Constituting an Act of Law Violation

Irrespective of the above analysis, a civil disobedient act is still conceived as disobedience to the law or constituting an act of law violation based on the regard of civil disobedience "as violent, lawless, unrestrained and coercive-that is a departure from normal (Morris, 1964). Accordingly, a civil disobedient is regarded as a criminal that deserves to be punished. This position is premised on the notion that disobedience presupposes the concept of a law or, at least, some form of public conduct generally thought and believed to have the force of law, which has been violated thus making the action illegal. And, in as much as the law which has been violated also has a penal dimension, the illegality is presumptively punishable, although the court, in the exercise of its discretion, may decide not to prosecute.

In fact, to theorists like Marshall Cohen, Carl Cohen, David Spitz, John Rawls and C.W. Summer among others have objected arguing that an act of civil disobedience does involve a violation of law or some decision of government which has the force of law.

First, their main objection is premised on the argument that, rather than actively resorting to protest which ‘supposedly’ constitutes breaking the law, the individual/citizen could easily have ‘ignored’ the proposed policy that appears unfavorable.

Second, that civil disobedience in a way constitutes ‘disobedience’ because it actually involves a violation of law/policy /decision of the government having the force of law. Based on this, conceiving civil disobedience as involving a kind of violation, refusal or non-compliance should not constitute a difficulty. The argument that civil disobedience involves the violation of a law or norm of public conduct in relation to a penal code came to be based on the argument whether or not constitutional test cases. Some of the proponents of the exclusion of test-cases from the analysis are Wasserstrom (1966) and Carl Cohen (1964) who contend that if an act of law violation is performed under a claim of ultimately legal or constitutional rights, or vindicated by the courts on grounds of invalidity such act is simply not an act of civil disobedience. The implied meaning is that civil disobedience cannot be legally justified just as the moral obligation to obey the law can be justified on legal principles.

However, Justice Abe Fortas argues that constitutional tests cases constitute acts of civil disobedience because laws with doubtful constitutional validity constitute the core of civil disobedient actions. Moreover, civil disobedience or the deliberate violation of law is never justified, in a nation where the law being violated is not the focus of the protest. To do otherwise is to act unconstitutionally and immorally, since civil disobedience would become a technique of welfare and not a form of civil protest. If laws must be violated then both must be invalid or unconstitutional. It is therefore apparent that the social and moral reality of civil obedience is tantamount to defence of rule of law. Forte’s, stand point have also been punctured on the grounds that its criterion does nothing to remedy /address unjust social conditions that have not been formally expressed in the law. This is despite the fact that the criteria agree to the unjust laws still. The conditions of the civil disobedient protests are often in this category. This is as evidenced in the fact that there is no specific poverty laws that the poor can violate in protesting poor living standards and conditions or bigotry or discriminations. These are few examples of the ills of a nation which rarely or more or less, have been given legal expression.

Adeigbo (1991), on the other hand, does not agree that constitutional test cases constitute civil disobedience acts. This is because admitting them implies the contradictory preposition that the law promotes and protects its own testing – given the nexus between law and obedience.

Thus, in logical terms, the law cannot advocate for the breach of law. Accordingly, in as much as it is conceived that disobeying uncontrolled and unjust laws guarantees protection of the disobedient from the consequences of his or her action, then forgoing such protection is not out of context. First, this is in relation to the realisation that the admission of illegality and the willingness to accept issues involved effectively brings to bear the aim of protest to the public awareness.

Also, the illegality aspect of it serves to distinguish law violation from the hard-core criminal type. In effect, agreeing that civil disobedience transcend just presenting a test case is in line with Rawls' position that those who use civil obedience to protest unjust legislation policy would be prepared to continue their protest even if the courts rule against them.

Third, it is illegal in as much as it is acting contrary to a decision made by the State which incidentally possesses the legitimate political authority of a validly derived law. In effect, for a group of people to possess legitimate political authority, the presupposition is that they have right or are permitted, provisionally at least, to define what constitutes legality or illegality within the scope of their authority. In the light of this, it would be apt to say that civil disobedient acts constitute illegality when a he or she or a group protests government policy by violating a valid law that forbids parading without a permit or occupation of government buildings. Thus, it then makes sense to restrict the notion of illegal acts of civil disobedience to the violation of laws of certain type, namely, penal laws.

The above points suffice to show why civil disobedience involves the violations of valid laws.

SELF ASSESSMENT EXERCISE 3

Discuss your understanding of how civil disobedience does constitute civil disobedience.

4.0 CONCLUSION

This unit not only defined civil disobedience but highlighted the set of criteria for deciding how an act of disobedience to law may not constitute civil disobedience and also when an act is properly an instance of civil disobedience.

5.0 SUMMARY

This unit addressed what civil disobedience means, its features and arguments for and against its constituting law violation.

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by the concept civil disobedience and its key features?
2. Discuss your understanding of how civil disobedience does or does not constitute civil disobedience.

7.0 REFERENCES/FURTHER READING

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MODULE 3 CITIZENSHIP AND RIGHTS

Unit 1	Liberty/Freedom
Unit 2	Citizenship and Rights
Unit 3	Contentious Issues of Citizenship
Unit 4	Gender and Citizenship
Unit 5	Rights of Citizenship

UNIT 1 LIBERTY/FREEDOM

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	Understanding the Concept of Liberty or Freedom
3.2	Types of Liberty
3.3	Critique of Berlin's Characterisation
3.4	Analysing the Practice of Freedom/Liberty in the Nigerian Context
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

This unit examines how the authority of the state with which a citizen cannot dispense with is to be made compatible with the liberty without which one is human? To this end, the conceptions of liberty/freedom and their implications in terms of political practice will be analysed.

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to:

- state the meaning of liberty and freedom.
- explain Berlin's two types of freedom
- list the fundamental freedoms as stipulated in the constitution.

3.0 MAIN CONTENT

3.1 Understanding the Concept of Liberty or Freedom

The terms liberty and freedom can be used synonymously, even though some social theorists try to maintain a distinction between them. Ordinarily, this emotive word means the non-constraining of one's action. The important point to note from this general definition is the nexus between 'constraint' and 'desire' in relation to freedom. Specifically, somebody can be conceived to be free to the extent that one is able to do something without any constraint or impediment capable of frustrating desire (Cranston, 1981:83).

The concept of liberty can be used in a moral and social sense in social and political philosophy. The moral sense refers either to circumstances between the human relations with one another. The social aspect refers to the conditions of social life.

Flowing from above, it is glaring that the concept can be used variously to the extent that if not properly understood it could lose its concise meaning. First, it is pertinent to state that not all constraints as alluded to in the aforementioned contention that the concept is the 'the absence of constraints or impediments' are equal. Ideally, freedom or liberty connotes the absence of coercion imposed by one on the other, however; the condition of an absence of coercion presupposes the absence of interference by conditions that could be removed by other people in the affairs of one another in a society.

In situations like this, "to be free from restraint" implies "to be free to choose" between alternatives available to one. This means the absence of coercion, by man, state or authority. But, if one is coerced then one's action is not a product of individual choice. To this end, one's freedom/liberty could be said to be curtailed or limited. In view of this standpoint, some social theorists have posited that 'liberty/freedom' should only be construed as the absence of coercion meaning that if one is not coerced but allowed to act out of personal will then he or she could be said to be free.

Understanding the concept of coercion is unique here so as to better understand what the 'absence from coercion or interference' in the concept of liberty really means.

In perspective of our analysis, the conception of coercion shall be limited to the direct limiting of freedom by force. This, by implication, means the limiting of one's choice and invariably the curtailing of one's freedom. There are various forms of force as evident in imprisonment or

the threat of harm through enforced power. These types are usually referred to as direct forms of coercion. However, of importance is the subtle and often dangerous form of coercion which consists of deliberate or mild alteration in the conditions which surround us and in which we live, and which can affect our decisions (Benn, 1987:259). This alteration to the conditions surrounding one comes in different forms. It could be mild on the one hand, as evident in the advertising of a certain product. On the other, it could rear its head through state propaganda. In sum, all these constitute forms of coercion in its interference with the freedom of individuals.

Very importantly, if freedom is conceived as the absence of coercion then the concept of coercion should transcend its direct form (such as imprisonment, threat, command etc) to encompass indirect forms of coercion as evidenced in propaganda, manipulation, etc. The essence of this, obviously, is none other than that these indirect forms involve “control by certain persons of the conditions that determine or affect the alternatives available to others” (Partridge, as cited in Edwards, 1967:222). This means that an individual is free being able to choose from different available alternatives presupposes that the alternatives are known by those who are to choose. In other words, that the individual should not be denied the opportunity of understanding the kind of available alternatives so as to have informed judgments about their choice. In other words, determining the extent of a particular person’s liberty is dependent on knowing something about one’s social and individual interests and activities.

The enjoyment of this freedom by individuals “is invariably linked to the extent to which competing, even conflicting, opinions, ideas, modes of life or behaviour etc. are allowed in a society; on how they can be freely recommended, criticised and examined, and on the ease with which men can make a deliberate choice between them” (Partridge, as cited in Edwards, 1967:223). A cogent example of this, education- which has the ability to enlarge an individual’s ability to act freely and the ability to take decision about available choices. In the same manner, Partridge contends that it is “not only suppression but misrepresentation and distortion or any kind of dishonest propaganda which gains its effects from privileged control over sources of publicity, may restrict the freedom of others”. This is in relation to the concealing of certain alternatives which invariably constitutes restriction on the range of available choices just like that of direct coercion. Consequent upon this, limiting the exercise of freedom in a particular society cannot be overruled. Summarily, given the above analogy, it is clear that ‘the absence or presence of direct form of coercion is not the only necessary and sufficient definition of freedom but the ability or process of choosing for oneself and acting out of one’s volition the choice that can be easily influenced or manipulated as it can be forcibly coerced’.

Against the above conceptions of liberty/freedom some social philosophy theorists have argued that it should transcend 'the absence of coercion to encompass natural conditions or power that can serve as impediments to one's freedom. According to them, it is not only other people that can impede/restrain individual but natural conditions, and any increase in knowledge and ability to modify such conditions or to make use of them to our advantage enlarges our area of freedom (Berlin, 1961:7). This can be understood to mean that it is not only other people that can impede or restrain an individual or a citizen's freedom. Rather, "our freedom, can be limited or hindered by poverty, ignorance and other restraints which are themselves the indirect results of deliberately imposed and remediable social arrangements"(Berlin,1961:8). For instance, the freedom of a poor individual freedom to acquire a property or anything could be said to be restricted vis-a vis that of the rich or elite who has the power (money or influence) in the same society. However, if the expression of liberty in the above example does not involve power or ability to do the task, then it will not be a question of power since it is a question of freedom even though the means may not be available at that point in time. This is because the limiting power is physical which is beyond the individual. But in a situation like this, it is then dependent on the individual's ability to modify freedom to his /her advantage. But, an individual cannot be said to be truly free to choose from available alternatives without the power to affect it (an argument that runs contrary to the views of some theorists who posit that power or means should not feature in the analysis of freedom because an individual's choice is constrained/limited by coercive powers of others).

Essentially, 'freedom/liberty can be conceived as the absence of coercion and restraint or the absence of certain impediments imposed by others(freedom from) to the exercise and satisfaction of certain interests and specific activities. This is a positive form of freedom/liberties like freedom of speech, worship, movement etc. This in other words implies 'freedom to' engage in specific activities. Negative freedom, on the other hand, is expressed in the form of positive freedom evidenced in the right of the individual to choose and make decisions without any interference. The caveat, however, is that in recent times positive liberty has a different meaning. This is in the claim by positive theorists that freedom in all its aspects cannot be enjoyed except the state initiates certain social conditions which will aid the fruition of the negative freedom (Norman, 1982:83-109). The main claim is that mere having the ability to choose from available alternatives does not constitute freedom for people. For instance a hungry and an uneducated man hardly is bothered about freedom/liberty. In a situation like this, the state needs to act in order to promote freedom.

This conception of liberty, however, runs contrary to the liberal conception of liberty which Berlin's negative freedom is in consonance with.

SELF ASSESSMENT EXERCISE 1

What do you understand by liberty or freedom?

3.2 Types of Liberty

Berlin (1961:7) notes in his seminar paper "Two Concepts of Liberty" two influential and important perspectives of liberty namely the negative and positive liberty which has been variously used in the different explanations of the concept.

1. **Negative liberty** is a matter of the absence of certain kinds of interference by others. In effect, not to be interfered with in pursuit of one's desire is to be negatively free. Negative freedom aims at solving the paradox of what constitutes the limit within which a person or group should be left to do what he or she or the group is/are capable of doing without interference by others. This concept of negative freedom is in consonance with the liberal conception of liberty.
2. **Positive liberty:** This refers to being motivated by purposes which are rationally self-determined, as opposed to one's irrational passions, false consciousness, or outside manipulation of others. Positive liberty is contained in the answer to the question, 'what or who is the source of control or interference that can determine someone to do or be X rather than Y? The belief here is that self-mastery the act of rational self-determination (in which higher reason -our true selves) enables an individual to control his/her lower passions, which is true liberty derives from man's desire to be in control of his own destiny. In essence, an individual's life and destiny should be in his/her control rather than be controlled by others. True liberty is all about not acting irrationally or ignorantly moreover an individual can be forced to be free if his lower self acts irrationally. In sum, though Berlin believes that self-mastery is not the sole or necessarily the most important goal in life still he objects to the idea that force could be used to achieve rational self-mastery. He says that to force or coerce or torture man in the name of freedom is morally objectionable. The shortfall in positive liberty according to him is that it could be used to justify the most pernicious rule. To this end, he believes that freedom is one among several social values including justice, equality etc.,

and it could be restricted for the sake of these values as well as its own. But he insists that freedom should not be curtailed or restrained without a sound moral justification.

Finally, it appears that Berlin prefers negative liberty (absence of obstacles or coercion) to positive liberty. It is important to say, however, that negative freedom-as the absence of constraint would only be effective if it is conjoined with positive freedom. In other words, the provision of social and economic goods will engender freedom.

SELF ASSESSMENT EXERCISE 2

Mention and discuss Berlin's two forms of Liberty?

3.3 Critique of Berlin's Characterisation

There are many objections to the characterisation of negative and positive liberty. The first is that Berlin's preference for negative liberty is premised on the non-interference feature which borders on the pursuit of one's desire/goal/wants. And any denial of this liberty means that people are unfree. This is because human inalienable rights/freedoms should not be obstructed in any way. However; this feature has been considered inadequate because an individual could be negatively free though the freedom would amount to nothing if there is no means to realise this freedom. Moreover, according to Macphurson (1973), "the account of freedom is too narrow to take into consideration the fact that 'people could be said to be unfree if the social institutions that will determine its fruition are arranged in such a way that they are deprived of basic needs of life'".

The second criticism centres on the fact that the account of positive freedom does not seem convincing. This is based on:

1. The fact that this contention of liberty need not be two-forked into the higher and lower selves.
2. It is at odds with the ideals of liberalism given that both advocate the importance of self-realisation.
3. While scholars may agree with Berlin that positive liberty has been used to justify tyranny and oppression because of the unavoidable influences of the higher selves and lower selves it is not necessarily the case that emphasis on positive liberty could lead to tyrannical rule or to oppression.

More over, 'no concept of liberty is entirely free from this distortion considering the notions of the higher self and the lower self, which could lead to the distortion of any concept of liberty rather than only

positive liberty. In view of this, Parent, (1974) argues that Berlin is not justified from ascribing this distortion to positive notion only". Moreover, theorists of positive liberty do not hold that freedom is the only genuine human ideal because they believe in rational self-mastery. In the same vein, most positive liberty theorists ascribe as much value as they do to negative liberty given that without other values the worth of positive liberty would be defeated. And, it is also not a fact that positive liberty theorists do not believe in pluralism of values.

Most importantly, MacCallum(1967) in his influential paper, "Negative and Positive Freedom" criticised the classification of liberty arguing that not only was the distinction unclear but it further confused the issues that are involved in the concept of freedom. In effect, he contends that freedom should be construed as a union of three schemas. His view is that 'when we talk of an agent's freedom one is concerned always with that agent's freedom from constraint or compulsion, interference with, barrier in doing, becoming something'. It is expected that this triad relation will end any form of controversy about what nature or kinds of freedom there are and the one that promotes humane ideal. However, what will generate controversy about liberty is not really what freedom is but on which liberty comes before the other. Also MacCallum like Berlin seems not to have considered that social institutions can limit freedom, given that if certain basic needs are provided for its realisation then freedom could only be meaningful.

SELF ASSESSMENT EXERCISE 3

Discuss the critique of the characterisation of liberty?

3.4 Analyzing the Practice of Freedom/Liberty in the Nigerian Context

The forms of freedom/liberties as stated in the convention for the protection of Human Rights and fundamental Freedoms in the Nigerian 1999 constitution in chapter iv (section 33 -46) are:

- the right to life
- the right to the dignity of the person
- the right to personal liberty
- the right to freedom from arbitrary arrest
- the right to fair treatment and fair trial in criminal cases
- the right to private and family life
- the right to freedom of thought, conscience and religion
- the right to freedom of expression
- the right to peaceful assembly and association
- the right to freedom from discrimination

- the right against compulsory acquisition of property without compensation

Against the background of the listed rights/freedoms, the presupposition is that all these rights to freedoms are guaranteed to the Nigerian citizen without coercion or restraint. However, this is not the case because the mere existence of the provisions in the constitutions does not presuppose the enjoyment of those rights in a concrete political system like Nigeria. For instance, notions of individual freedom and liberty, though representing some of the cherished values of a free society is like a charade for the majority of people who are living in almost sub-human existence in conditions of abject poverty and for whom life is one long unbroken chain of want and destitution.

It is then obvious that the right to life would amount to nothing to a poverty-stricken unemployed citizen. In as much as one is not advocating for the expunging of the right to life from the constitution, however, the right would make more meaning to all of our peoples only when each of them feels that it is worth-while to live.

Accordingly, though the constitution says that ‘no person shall be subjected to torture or to inhuman or degrading treatment’ a large number of the citizenry are under perpetual torture and inhuman or degrading treatments. In this regard, it appears that the law is helplessly impotent because of the very social structure of the society. This is because some rights appear to be more for the benefit of the wealthy and the powerful of this society than the millions of our people who are poverty ridden. Surely, it is most inhuman and degrading for able-bodied people who are willing to work but are still unemployed. This situation amounts to a state of extreme torture.

It is also applicable to the right to freedom of expression including the freedom to hold opinions and to receive and impart ideas and information. This is as evidenced in the deadlock being experienced in the Freedom of Information (FOI) Bill since 1999 which makes mockery of access to a number of other fundamental rights of the individual as provided in sections 33 to 46 in chapter 4 of the 1999 Nigerian Constitution. This is because the right to information is not an end in itself but a means which facilitates human rights (indivisible, inalienable and universal claims that guarantee the existence of human beings) and good government accountability (openness, access to public records and information) which are interdependent and should co-exist in any democratic society. It is pertinent to state that the Freedom of Information (FOI) Bill is a legal instrument which when passed into law will render the Official Secret Act (OSA) which withholds ‘classified information’ irrelevant and make public records and information

accessible to the media. Thus, it should be made clear that the bill is not about exposing anybody but rather about Nigerians having access to information that will make public records and information freely available consistent with public interest and the protection of personal privacy to serving public officials from adverse consequences for disclosing certain kinds of official information without authorisation.

Expectedly, it could also be argued that this right does not have any meaning and application to an illiterate citizen who is struggling for survival who probably cannot read or write or an unemployed citizen who can hardly keep body and soul together.

On the right to fair hearing, as entrenched in the constitution, the basic assumption of the principle of judicial administration in this country and globally in most civilised countries is that all persons are equal before the law hence should have access to justice. This is not the reality because “equality before the law is nothing but a myth created by our political rulers and the lawyers to give cold comfort to the poor, so that they, that is the political rulers and the lawyers, can have peace of mind. We are simply not equal before the law unless we give a restricted meaning to the word “equal”... all persons do not have the same opportunity of access to the courts-that is opportunity in practical terms to ventilate grievances within the temple of justice. In order words, equality of access to our courts or the so called equality before the law therefore is nothing” (Akinola, 1987:6).

The reality is that with justice being a rare commodity so much so that the people are detained for years without trial runs contrary to established law and the constitution which upholds justice for all. Therefore, to leave a legacy to posterity, it is an important duty of the judges to rectify.

In sum, it is obvious from this analysis that the vast majority are not enjoying the fruits of our so called freedom which are their birth rights. More over, if all the entrenched fundamental rights are subjected to an analysis it will be clearly seen that most of them have meaning only when certain basic economic needs are met. Thus, given that distributive justice is a fundamental condition of life and liberty the only solution for making these rights meaningful to citizens border on remaking the material conditions so as to usher in a new social order where socio-economic justice will serve as preconditions in ensuring that fundamental liberties are secured.

SELF ASSESSMENT EXERCISE 4

Analyse the shortfalls in the practice of fundamental rights and freedoms in a concrete political system like Nigeria.

4.0 CONCLUSION

This unit explained that liberal theorists of liberty emphasised absence of constraint or coercion in their definition of liberty while positive theorists maintained that for freedom to be meaningful there must be some social prerequisites. Also, it explained that any meaningful freedom is dependent on the state to provide certain social and economic goods for the realisation of freedom.

5.0 SUMMARY

The unit examined the contentions by theorists about what liberty/freedom is as well as its features, types, critique and the practice in a political system.

6.0 TUTOR-MARKED ASSIGNMENT

1. What does the concept of liberty or freedom mean?
2. Explain the types of liberty from Isaiah Berlin's perspective.
3. What are the major critiques of liberty?
4. Analyse and evaluate the guarantee of liberty in the Nigerian context

7.0 REFERENCES/FURTHER READING

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UNIT 2 THE CONCEPT AND PRACTICE OF CITIZENSHIP

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What is Citizenship?
 - 3.2 Acquisition of Citizenship
 - 3.3 What are the Entitlements of Citizenship?
 - 3.4 What are the Duties and Responsibilities of Citizens to the State?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Since the history of political formations, there has been concerns with the issue of citizenship as a subject for political and policy concerns. In effect, this unit will address precisely the constant preoccupation with definitions of who a citizen is, how citizenship can be acquired, what entitlements accrue to a citizen from the state? Does citizenship necessarily imply duties or better still what are the responsibilities of a citizen to the state?

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to:

- define citizenship and who is a citizen?
- state the entitlements that accrue to a citizen from the state
- state if citizenship necessarily imply duties from the citizen to the state?

3.0 MAIN CONTENT

3.1 What is Citizenship?

The first thing that comes to mind is ‘who is a citizen’? A citizen or *citizenship* broadly is conceived as social contract valid for all in a political system based on the set of *rights and obligations* which a citizen is entitled to within a given state. In effect, citizenship could be regarded as the most privileged form of nationality, a broad term said to

denote various relations between an individual and a state. However, this relation does not necessarily confer political rights but do imply other privileges, especially protection abroad. In effect, a citizen is supposed to identify with the interests of the political community to which they belong even at the expense of their membership in families, professional or regional communities. This notion of citizenship creates a problem for federalism especially in a country like Nigeria. This is in the sense that the central object of federalism is “the extension and expansion of political space, autonomy and institutions to the benefit of geo-political units in a context in which the political community accepts that ethnic, religious and cultural differences exist and that their management would benefit from differential levels of governance (Ibrahim, 2003, 115). In this context, each participant enjoys a constitutionally protected membership in two polities, one regional and one central (Vernon, 1988:3). The implication of this is that citizens of a federal state will enjoy protection from two levels of government. This aspect of federalism has been pushed too far by political elites so much so that it has served to undermine the values of loyalty or served in engendering double loyalty.

On the other hand, citizenship as defined by international law denotes all persons whom a state is entitled to protect. This feature should, however, not be conceived as if a state may not protect aliens. The important thing to note, however, is that citizenship expectedly should confer equal access to a range of resources (like Civil Resources, Social Resources, Political Resources, and Economic Resources) so as to engender concomitant duties from the citizenry to the state.

However, collective identifications based on ethnicity, religion and sex which all play an important role in determining the collective shape of citizenry (Glazer 1994:224-39; Kymlicka and Will, 1990) have continued to ensure many a citizen are left out or are only partially included in the institutionalisation of notions of citizenship i.e equal access to a range of resources.

This brings to bear the fact that the actualisation of the content of citizenship though different for various segments of society go beyond the establishment of formal democratic institutions.

In effect, it has been agreed by scholars that citizenship is not absolute i.e. something that you either have or not, rather what you may have more or less of, in terms of the various attributes of access and recognition.

Thus, for modern concept of citizenship, a significant divergence has been on the question of whether citizenship rights should be understood

as individual entitlements only, or group and community rights. This shift in the content of citizenship over time not only border on changes occurring in society but rather on the fact that the attributes of citizenship have, however, neither been static nor uniform, or even limited in application exclusively to individuals as opposed to communities. This is in relation to central issues like the engendering of citizenship which include struggles for the expansion of the rights of women; the promotion of male-female equality i.e. the reconstitution of the public sphere to enhance the presence and participation of women which border on patriarchy or on notions of discrimination, the reform of family law; and the re-definition of the legal requirements for citizenship.

SELF ASSESSMENT EXERCISE 1

What is your understanding of who a citizen is?

3.2 Acquisition of Citizenship

Citizenship or membership is channeled through one authoritative agent, the state. Membership in state/ society and its social organisations occur in different modes and influence a person in diverse ways.

However, conditions for acquiring citizenship in any country so as to be granted the privileges of natural-born citizens are through *registration and naturalization*.

Specifically, in the Nigerian Constitution of 1979 and 1999(stated in Chapter 11) citizenship can be acquired through three basic processes:

- (1) **By Birth:** This means
 - (a) Every person born in Nigeria *before the date of independence*, either of whose parents or any of whose grand parents belongs or belonged to a community indigenous to Nigeria.
 - (b) Every person born in Nigeria *after the date of independence*, either of whose parents or any of whose grand parents is a citizen of Nigeria.
 - (c) Every person born outside Nigeria either of whose parents is a citizen of Nigeria.
- (2) **By Registration:** This second category includes those to be registered by the president through relevant public agencies.

- (3) **By Naturalization:** This category involves those who naturalize. Here, the membership of a state is determined by the legal classification of inhabitants within states as citizens and non-citizens. For the non-citizens i.e immigrants the state institutes certain citizenship policies or membership policies which regulate admission to citizenship in a state which have absolute authority to include or exclude persons as members of state. This differentiates inhabitants which are regarded by the governing regime as the state's subjects, and those that are not so much so that although inhabitants of a given state are residents, only citizens, i.e residents that have *citizenship* are able to participate politically in voicing legitimate demands, forming rules and enforcing these upon all members within society, including *non-citizens*.

SELF ASSESSMENT EXERCISE 2

How can citizenship be acquired?

3.3 Entitlements of Citizenship

It is expected that the consolidation of nation-states within fixed territorial boundaries and the institutionalisation of participatory mass democracy would confer equal access to a range of resources. The range of resources at the state's disposal according to (Marshall, 1965, Brubaker, 1992, Davis, 1994) are:

- (a) Civil Resources: These are entitlements such as legal protection and access to the courts of law
- (b) Social Resources: Here, the state is expected to provide welfare, education and health services
- (c) Political Resources: These include voting and political representation to ensure equality of all citizenry.
- (d) Economic Resources: These include the use of land and water as well as the right of permanent abode.

Specifically, in a concrete political system like Nigeria, the convention for the protection of Human Rights and Fundamental Freedoms in the Nigerian 1999 constitution chapter *iv* stipulates the guarantee of human rights especially political and civil liberties.

SELF ASSESSMENT EXERCISE 3

What range of resources or entitlements accrue to a citizen from the state?

3.4 Duties and Responsibilities of Citizenship?

Citizenship to Aristotle implies the capacity to assume responsibility (such as participation in holding office) in the polis (State). This responsibility effectively distinguishes the citizen from non-citizens. Some duties and responsibilities expected from citizenship are:

- (a) **Allegiance:** Citizenship is a form of relationship between an individual and a state in which an individual owes loyalty, commitment to the state and in turn is entitled to protection by the state. It is pertinent to state, however, that though this protection is extended to the aliens, most at times the accompanying responsibility is denied or at times extended partially to aliens and other non-citizens residing in any given country.
- (b) **Tax Obligation:** Citizens (as well as aliens) of a state are under obligation/duty to pay taxes, royalties because the revenue generated will be ploughed in the provision of social infrastructure and basic amenities.
- (c) **Military Service:** One of the obligatory responsibilities of the citizens to the state (for example Israel) is that of offering to serve and protect the integrity of the state through the uniformed institutions and organizations such as the police and the military/armed forces. However, in Nigeria it is not compulsory to serve the military or police. It is important to mention that even aliens enter military and police in some countries.

SELF ASSESSMENT EXERCISE 4

Itemise the duties and responsibilities expected from citizenship.

4.0 CONCLUSION

This unit examined what constitutes citizenship, how citizenship can be acquired and what a citizen's duty and responsibility are within the context of a concrete political system.

5.0 SUMMARY

The unit addressed fundamental issues concerning citizenship.

6.0 TUTOR-MARKED ASSIGNMENT

1. Who is a citizen?
2. Distinguish between an alien and a state?
3. How can citizenship be acquired?
4. Does citizenship imply duties and responsibilities? Why?
5. What resources accrue to a citizen from the State?
6. Evaluate the practice of citizenship in a concrete political system like Nigeria.

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UNIT 3 CONTENTIOUS ISSUES OF CITIZENSHIP

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Strains to the Notion of Citizenship
 - 3.2 Statism/Indigeneity/Federal Character
 - 3.3 Religion
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Concerns with issues of citizenship are as old as the history of political formations. Indeed, citizenship has engaged the attention of scholars from the earliest beginnings of political community; as a subject for political and policy concerns so much so that it has involved a constant preoccupation with many issues of concern. Both yesterday and today, therefore, from the perspective of the Nigerian political system, the central issues of citizenship which have included: colonialism, the crisis of the ethnicity identity, the concept of indigeneity shall be examined in this unit.

2.0 OBJECTIVES

It is expected that by the end of this unit, the student should be able to know:

- discuss the various concerns of citizenship
- explain statism
- explain religion etc.

3.0 MAIN CONTENT

3.1 Strains to the Notion of Citizenship

The implication of the constitutional provision in Chapter 11 of the 1999 constitution section 39 that: *a citizen of Nigeria, of a particular community, place of origin, sex, religion or political opinion, shall not by reason only that he or she is such a person be subjected to disabilities or restrictions to which citizens of Nigeria of other communities etc are not made subject or be accorded any privileges or*

advantages not accorded to citizens from other communities” is that a citizen of Nigeria is automatically a citizen of every state of the federation that should be conferred equal rights and duties.

But the answer is not in the affirmative, obviously given various strains as will be discussed.

a) Colonialism

Prior to colonialism various pre-colonial societies of Nigeria were organised into identifiable political systems corresponding to their environmental needs. The classification was *ab ini tio*: centralised or decentralised, comprising three basic categories as large states, small states, and politically autonomous communities (Abejide, 2004:10). However, with the advent of colonialism (between 1885 and 1960) evidently these polities were collapsed invariably stunting not only the expansion and the autonomous development but national integration. This obviously stimulated inter-ethnic jealousies which explain why the Nigerian population has been incapable of developing and interacting as diverse citizens. Rather, it has been claims of citizenship as Yoruba, Ibo, Hausa, Ijaw, Itsekiri, Tiv, Fulani and a host of others. This subversion due to colonialism no doubt is the bane of ethnicity and a dearth in national integration as citizens in the superstructure known as Nigeria.

3.2 Statism/Indigeneity/Federal Character

The negative consequences of colonial legacy of the colonial situation have continued unabated, heightening ethnic tension, insecurity and doubts about the Nigerian state associated with the concept of *indigeneity* which has generated a lot of controversy.

Concisely, *statism* as a concept is the presumed tendency on the part of states to reserve their public services exclusively in the hands of their indigenes or expendable foreigners and ‘non-indigenes’ (Nigerians). The practice is the formal distinction between indigenes and non-indigenes (indigenes or natives referred to as strangers) who are not members of the native community living in the area of authority (Bach, 1977:376).

This concept is traceable to the regionalisation of the Nigerian civil service in 1954 instituted in the bid to ‘operationalise’ the *federal character principle*. This principle which succinctly states in Chapter 2, section 14(3&4) of the 1999 Constitution that “*the composition of the government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to*

command national loyalty, thereby, ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that government or in any of its agencies” aims at encouraging a sense of belonging or national unity through inclusive participation in an ethnically divided society.

In this wise, expectedly, the staff of all federal and state agencies, institutions and parastatals even the Nigerian Armed Forces and the Nigerian police should reflect the federal character no doubt. But ironically, the practical essence of this principle which was to serve as *‘a temporary concession to expediency so as to serve as a latitude to any region wishing to protect its inhabitants’ right to employment and to land within its borders as against others i.e. those from other regions* (Bach, 1977:376). Ironically, it has become discriminatory in its segregation of Nigerian citizens on emotional basis into indigenes and non-indigenes citizens in the various states of the federation and consequently contentious.

The acts of discrimination are evident in: filling vacancies in public services, membership of executive committees of the political parties (in fact until recent times many do not participate in the politics of where they reside), schools (e.g. as some states as from 1979 implemented party programmes on free education, entry into federal institutions like the Armed Forces, the NDA, federal government colleges as well as scholarships were the privileges of the indigenes, access to health and low-cost housing schemes non-indigenes were excluded) irrespective of the question of the entitlements that s/he can enjoy as a tax-payer as a Nigerian citizen.

In a sense, though it is true that the real determination of one’s citizenship status, the rights and privileges associated linked with one’s place of birth, however, a Nigerian citizen who resides in a town or village where s/he is not an indigene normally should not enjoy only limited rights and privileges. This is because where a citizen makes an input of support in the form of the payment of taxes it is expected that s/he should be entitled to privileges and rights to education, employment, residence. It is clear that this policy which albeit to date is still operational though in subtle forms has succeeded in strengthening parochial orientations and primordial attachments of Nigerians instead of addressing the ills of minorities as well as forming the bane disaffection and disconnect between citizens and the state. It is expected that deliberate attempts will subsequently be made to eradicate it.

SELF ASSESSMENT EXERCISE 1

Explain in your understanding the concept of ‘statism’.

3.3 Religion

Religious fundamentalism offers ideological support for the assertion of the primordial values and institutions. Muslims are expected to submit to the authority of the state and the ruler in line with the supremacy of Sharia which is to be enforced in all sectors of life. The Islamic concept of Umma can be considered a divergent approach to citizenship as it connects the question of rights and duties of an individual in the state to his/her religious affiliation. Historically, non-Muslims have been discriminated against by this as aptly explained by the infringement on freedom in module 2, unit 5.

SELF ASSESSMENT EXERCISE 2

Explain the impact of religion on citizenship.

4.0 CONCLUSION

This unit addressed fundamental issues concerning citizenship.

5.0 SUMMARY

The issues raised above bring to bear the necessity to reflect on the question of citizenship.

6.0 TUTOR-MARKED ASSESSMENT

1. How does religion affect citizenship?
2. How does federal character affect citizenship in Nigeria

7.0 REFERENCES/FURTHER READING

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UNIT 4 GENDER AND CITIZENSHIP

CONTENTS

1.0 Introduction

2.0 Objectives

3.0 Main Content

3.1 Understanding what Sex and Gender Mean?

3.2 Gendered Citizenship

3.3 Issues in Contention in gendered Citizenship

4.0 Conclusion

5.0 Summary

6.0 Tutor-Marked Assignment

7.0 References/Further Reading

1.0 INTRODUCTION

Despite the long and rich history behind the concept and practice of citizenship, the task of engendering it has remained both an arduous and unfinished business. It has been characterised by unceasing struggles to lift restrictions against women- and men- that range from the patriarchal to the out rightly discriminatory. Thus, while it is true that humanity has come a long way from the time when the idea of the citizen was conceived and operationalised it has been slow and fragmented; in fact progress has mainly occurred only in the exclusive male/masculine terms.

So, to make the task of engendering citizenship a live one with relevance that is as historical as it is contemporary borders on a liberalised public space in which the rights of citizenship-of equality, voice and access will be constantly redefined.

In effect, from a gender perspective, this unit aims at re-examining the question and central issues in engendering citizenship which include: struggles for the expansion of the rights of women; the promotion of male-female equality; the re-configuration of femininities and masculinities; the reconstitution of the public sphere to enhance the presence and participation of women; the politicisation of the personnel; the reform of the family law; and the redefinition of the legal requirements for citizenship.

2.0 OBJECTIVES

After this unit, it is expected that the student should be able to:

- recognize the concept of sex and the variables which determine it.
- differentiate the concepts of gender and sex in order to apply them properly within the context of citizenship.
- appreciate the importance of gender issues and reasons for analyzing the concept in relation to citizenship?

3.0 MAIN CONTENT

3.1 Understanding What Sex and Gender Mean?

Given that 'gender' as an analytic concept is still misunderstood, it becomes imperative to explain it bearing in mind its importance in constitutional reforms/amendments as well as the formulation and application of citizen policies.

The phrase *sex/gender system* was introduced by U.S. anthropologist Gayle Rubins, renowned for her 1975 essay entitled 'The Traffic in Women: Notes on the Political Economy of Sex.' The aim of the essay was to discover the origin of the subjugation of women for ages through examining Karl Marx, Frederick Engels, Claude Levi Strauss, Sigmund Freud and Jacques Lacan among others in her effort to unearth what she conceived as the sex/gender system which in other words means a set of arrangements that condemn women to a secondary position in human relations.

The implication of the above is that the criteria used to define *femaleness* and *maleness* occur at varied levels therefore bringing to bear the understanding that one's biological sex determined one's sex. This scenario prompted feminist theorists, around the 1970s to begin to question the biological determinism evidently implicit in the causal relationship between biological sex and gender through theorising a distinction between *sex* and *gender*.

Specifically, gender can be defined as a social construct that asserts that the expectations and responsibilities of men and women are not always biologically determined. The importance of this concept becomes apt especially to gender advocates because it accommodates race, class, ethnicity, male and female power relationships.

Given the above conception, it is apparent that gender refers to a certain social dynamic through which social values, technical skills, modes of behaviour etc are learned by individuals and social groups through the

process of socialisation (Oakley, 1987; Imam, Mama, and Sow, 1997) accomplished in social institutions such as the family, school, society, cultures, religion and the economy. In effect, ideas of what patterns of behaviour and activities are appropriate or inappropriate for women and men are largely social and cultural in origin and they are acquired through the socialisation process. Based on this understanding of gender, it could be said that the woman's role is defined by the society.

Accordingly, the socially constructed roles, responsibilities, norms, expectations, and stereotypes held about the characteristics, aptitude, and behaviours of both women and men (femininity and masculinity) in areas such as, for example, the division of labour, are evidenced in the allocation of duties such as cooking, washing, domestic chores etc. These chores supposedly belong to the home-front (private sector) while the non-domestic duties such as decision-making (the public sector) allocated the male gender.

This gender role differentiation structurally and culturally defines the woman's role in ways which create and reinforce relationships of male dominance and female subordination. However, culturally determined patterns of behaviour such as rights, duties, obligations and status assigned to women and men in society (gender roles) are varied even within the same society.

The term 'gender' therefore is a neutral term which accommodates the view that women's issues are part of broad social issues many of which arise out of basic social-class differences as opposed to purely sexual differences. In other words, the concept (gender) most times is used in reference to 'women' so as to mollify conservatives who are more receptive to a discussion on gender than to one on women. Thus, when one adverts to the issue of gender today, it is not merely about the *physical difference* that being biologically male/female would entail but about social *constructions of maleness and femaleness* and often impinges on citizenship relations between men and women.

Sex then is distinguished from gender by what one is born as, that is female or male, and therefore it is a biological concept. The concept of *sex* therefore presupposes the tendency to see the roles that women and men play in society as being extensions of their respective nature especially in relation to gender-based division of labour whereby duties are allocated on the basis of one's *sex*.

By contrast, sex has an exclusively physiological/biological connotation/character. In other words, the two genders are distinguished from one another by physical, that is, biological sexual/reproductive differences.

What is implied from this analysis is that ‘gender’ or gender roles can change over time as well as vary within and between cultures. Thus, it could be said that the concept has acquired a social meaning and social character which is learned. In effect, systems of social differentiation such as political status, class, ethnicity, physical and mental disability, age, and others-modify gender roles through determining how subordination or domination are socially constructed.

Finally, basically ‘gender’ as a neutral term accommodates the view that women issues are part of broad social issues many of which arise out of basic social-class differences as opposed to purely sexual differences.

SELF ASSESSMENT EXERCISE 1

Explain your understanding of gender and sex?

3.2 Gendered Citizenship

Based on previous section, it is glaring that the concept of gender is vital to socio-political analysis of citizenship as it will reveal how gender subordination/marginalisation/domination is socially constructed.

Based on this conviction, *gendered citizenship* can be said to refer to the socially constructed roles, responsibilities, norms, expectations, and stereotypes accorded to men and women in relation to the question of citizenship. To however, change this subordination, the social democratic ideal of citizenship has constructed a model, the traits of which are “an activist, participatory and egalitarian ideal” (Hernes, 1987:139).

Usually the notion of social democratic citizenship includes the assumption that both perceptions of the “state” and ‘the individual’- of rights and obligations- are shaped by the defining characteristics of movements mobilising for political control. To therefore, create the nation to which the citizen belongs, ideologies of opportunity must combine with ideologies of identity that pay due respect to what constitutes girl/womanhood. This ideal for the citizen expectedly should not only transcend all immediate materialism but be ‘un-gendered’.

In other words, women’s rights which are an integral and inseparable part of human rights in turn should be a fundamental aspect of any democratic framework. More over, women’s studies and the amalgamation of practical experiences repeatedly have pointed out that women are not and should not be considered a minority because, indeed, they are as much a “minority” as men are in any context. This same

argument is used to justify the need to bring ‘minorities’ into decision-making processes.

However, it is appalling that despite the increasing popularity of the concept and practice of democracy, which supposedly should ensure the inclusion of the opinions and perceptions of different groups i.e women as well as men as a goal for individuals and nations globally, issues about gender still remain elusive because it falls almost exclusively within the traditional definition of politics which is characterized as male-dominated, specific to the “public sphere”, and therefore not necessarily women-friendly.

But this should not be so given that women effectively constitute not only half the world’s population, but half of each and every single national population. In effect, to conceptualize issues and develop policies which will affect, directly or indirectly, citizens’ lives without taking into consideration the situations, perspectives and realities of all those who will be affected is no longer credible in today’s world.

Based on the above, it is apparent that democracy cannot afford to be gender-blind. In effect, it would not be out of place to say therefore that taking into account gendered perspectives and involving women and men in decision-making processes is a *sine qua non* of any democratic framework.

To this end, feminist theorists/ analysts centre mostly on notions of equality and universal social rights arguing that notions of gendered citizenship are visible as *the issues in contention* in the next unit will reveal.

SELF ASSESSMENT EXERCISE 2

Explain what gendered citizenship means.

3.3 Issues in Contention in Gendered Citizenship

This aspect focuses on the issues in contention for women which are premised in the two tendencies toward “grand inclusion”: social citizenship, and political citizenship. These shifts focus on two key questions in feminist thinking about citizenship: the interconnection between social policies and women’s political integration, and the interplay between political participation, representation, and power. This is against the backdrop of the fact that ‘women issues’ are subordinate to other interests.

It is clear from the above analysis that the gender concerns or issues germane to engendering citizenship which are not free from patriarchal claims, in the constitution should evidently evoke concrete constitutional reforms/amendments and not sentiments.

Thus, from a gender perspective, Nigerian citizenship presents an interesting case for several reasons.

First, citizenship provisions have been criticised for being gender-insensitive with gender-based Affirmative Action as the most contentious issue. Affirmative Action (which is not restricted to women issues only as it can be used in respect of minority issues) is intended to supplement non-discrimination; and a term which encompasses policies as consciousness-raising, efforts to recruit women. This process which encompasses practices such as the use of quotas, set asides, weighing gender as a priority essentially allows for rules that have the objective of enhancing equal opportunity for women as individuals as well as other disempowered groups.

The second dearth is in relation to inclusiveness so much so that women in particular have faulted the 1999 constitution for its failure to take into account the gender-based disparities. These constraints concern outright legitimisation of gender-based discrimination as far as citizenship is concerned. Rather, the Nigerian constitution reinforces discrimination for instance, in Chapter 111; section 26(2) of the constitution extends citizenship right to the female spouse of a Nigerian citizen without doing same for a man married to a Nigerian woman.

This runs contrary to Section 42(1) which provides the right to freedom from discrimination, which invariably embodies for instance, right to life, human dignity etc in line with Article 1 of the Convention on the Elimination of all Forms of Discrimination (CEDAW) which defines discrimination or restriction as “any distinction, exclusion or restriction made on the basis of sex which has effect or purpose of impairing or nullifying the recognition of women, irrespective, enjoyment or exercise by women, of human rights and fundamental freedoms in the political, economic, social and cultural, civil or any other field.”. The implication of the above is that equality provisions should share nexus with provisions on equity i.e. equality between women and men which should relate to the dignity and worth of men and women in their rights and also recognition of the necessity for representation of women at all levels of decision-making

However, women’s political integration should not be understood in terms of a general transformation of male domination, or predominantly as an effect of labour market participation. Rather, it should be conceived as a result of a series of political alliances which have

consistently challenged political exclusion from the basis of these institutions main claim to legitimacy. This is especially so given that social rights cannot secure equal citizenship between women and men. However, in recent times, though still in contrast with political participation of women in other climes it is remarkable that women's representation rates have increased in percentage in social and cultural development and benefit from the results.

Women's Political Rights are an integral and inseparable part of human rights and in turn a fundamental aspect of any democratic framework. The key to a more inclusive gender-driven citizenship rests on the interaction between women's political activism "from below" (in social movements, voluntary organisations, and feminist groups), and their political integration "from above" (that is, in political parties and institutions. This in effect, borders on the rational rationale put forward to justify that more women as citizens should be elected into political institutions premised on arguments of justice, optimal use of resources within a society, legitimacy of the political system, and the argument that women as citizens have rights as citizens. As it relates to Nigeria's political history, women have played a special role even when they were not regarded as citizens. Moreover, numerous strategies have been used by women's groups as well as by political parties as guides for ensuring they are not short-changed with the number of women in legislative houses and those appointed albeit if a token number.

Other concerns which border on the ambivalence of constitutional provisions are:

- (a) access to resources
- (b) violence against women
- (c) widowhood etc

There must be the establishment of a new understanding of gender relations especially in child care politics given that the society of equality should be built on the premise of dual breadwinners even though the family may still be envisioned as the 'smallest of society's harmonious communities'. This is premised on the implied marginality of housewives whose valuable family still suffer a dearth in the social security system especially as they lack the rights to earn pensions or receive comprehensive system of formal regulations to secure their future especially as widows.

Citizenship rights of women therefore, should be expanded to include the rights of working mothers given that motherhood and care-giving have become part of political life. In effect, there is a new emphasis in contemporary times on men as fathers and as parent-citizens especially

on issues like family policies which in particular aim at securing women's labour market participation- such as parental leave and public child care arrangements.

In sum, it is necessary to domesticate international conventions on women's rights as citizens and put in place mechanisms for implementation. The first step to the recognition of women's rights is the strengthening of the Constitutional guarantee on gender equality which will include the guarantee of equal citizenship. The implication of this is that the principles for the involvement of a cohesive political entity should be inclusive, diverse, enjoin participation, transparency and openness etc.

SELF ASSESSMENT EXERCISE 3

Explain the issues in contention in gendered citizenship?

4.0 CONCLUSION

This unit analysed the concept and practice of gendered citizenship from a women's perspective by bringing to bear the struggles to lift women from the patriarchal discriminatory practices.

5.0 SUMMARY

In sum, the unit brought to bear what gendered citizenship means to the expansion of the rights of women; the promotion of male-female equality; the re-configuration of femininities and masculinities to meet the public sphere requirements of legal requirements for citizenship.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain what gendered citizenship entails?
2. Is it necessary to domesticate international conventions on women's rights as citizens?
3. Justify how violence against women and widowhood constitute issues that need to be addressed in citizenship.

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UNIT 5 RIGHTS OF CITIZENSHIP

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What are the Rights of a Citizen?
 - 3.2 What are the Justifications of Rights?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

When an individual moves from a subject status to the status of a citizen, he/she acquires *rights*. In effect, this unit will examine the institution of rights as the claims of citizenship on society.

2.0 OBJECTIVES

It is expected that after this unit, the student should be able to:

- define a right
- discuss rights should accrue to a citizen in a political system/state?
- state the justification/function of rights

3.0 MAIN CONTENT

3.1 What are the Rights of a Citizen?

Rights can loosely be defined as the claims which the individual can make both on the state and the other citizens. These claims automatically create liabilities for both the state and other citizens. For example, the right of citizen A to freedom of religion places both the states and all other citizens under obligation (or liability) to desist from interfering with A's exercise of that right. A special obligation is also on the state to help enforce that right for citizen A even when other members of the society or group or associations threaten that right. But if society-meaning the state and other citizens-are going to be placed under liability or respecting this right, the justification must be that it is in the public interest to impose that cost or liability on the state and the citizens (society).

It is apt to state here that during the divine order, individual rights meant “a right to something” in relation to a divine or actually existing law in contrast to the view that emerged that society was based on a contract between individuals, having both rights and duties in the 16-1700s.

For a right to exist, it must be recognised by law/constitution. In the light of this, the Supreme Court of Nigeria, specifically gave a judicial interpretation to ‘rights as an interest recognised and protected by law which involves a three-fold relation in which the owner stands’ thus:

- it a right against some person or persons
- it is a right to some act of omission of such person or persons
- it is the right over or to something to which the act or omission relates.

Based on the above, rights can be asserted, demanded and acted upon. To this end, rights impose strict obligations on all whose non-performance occasions feeling or resentment or indignation rather than disappointment. It is therefore a common fact that many modern constitutions contain provisions entrenching fundamental rights. In the Nigerian context, all the five constitutions since independence-1960,1963,1979,1989 and in chapter iv (section 33 -46) of the 1999 constitution have each contained an enumeration of rights which the constitutional writers had thought to be necessary as the ark of the constitution.

John Locke is often considered to be the first exponent of the natural individual rights, with his work *Two Treaties on Government* (1689). At the core of natural rights thinking is the idea than an individual has certain inherent rights which are connected to human nature, in “the state of nature”, i.e. in a (hypothetical) situation where the institutions of the state do not exist. From a moral point of view, the natural rights are, more fundamental than the existing laws of society which according to perspective are only legitimate to the extent that they respect the natural rights of citizens.

The implication of this was further heightened by Thomas Jefferson of the United States of America who stated in one of his letters to James Madison in 1787 “that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference”. Accordingly, the Journal of African Law, No 2(1972:131) concurs by succinctly arguing that “fundamental human rights were not created by the state but are external and universal institutions common to all mankind and antedating the state and founded upon natural law”. This in effect, means that fundamental rights can be described as ‘tracendental’,

‘inalienable’, ‘primordial’ as well as constituting the constitute ‘the ark of the constitution’. In other words, these are rights which all persons hold by virtue of the human condition and having consequently been won by the people is subsequently inscribed in the constitution. The implication of this is, is that it is not determined by the state; hence the rights cannot be withdrawn by the state.

Implicit in the analysis above is the conception that children as well as women are subjects of rights i.e. they have rights and are not objects of charity. In effect, premised on the principle of non-discrimination a change in attitude is required so that children can participate in the processes and decisions that concern them and affect their right to life, survival and development. In this regard, it is crucial to ensure access to basic services, and equity of opportunity for all individuals to achieve their full development, based on the principle of distributive justice. The Child Rights Act, which has been passed into law, is in tandem with ‘best interest of the child as a primary consideration’. The ‘best interest principle includes basic services for children and women which must be guaranteed all the time by the state as a duty.

It is essential to know that though the laws under different national legal systems may vary, the human rights to which a person or citizen is entitled to are rights in (international) law. For example, the human right to a fair trial is the same for a person who lives under a legal system of common law, civil law or Roman law. Summarily, states have the obligation to ensure that their discrete legal systems reflect and protect the international human rights which those within their jurisdiction hold.

However, this is not always so given that during the military junta in Nigeria not even the fundamental rights of life, liberty, privacy, fair hearing etc were respected. The point at issue is that much as it is essential to entrench these rights in the constitution, notions of individual freedom and liberty, though representing some of the cherished values of a free society appear meaningless. Thus, the most important thing is not the constitutional enumeration of rights and responsibilities but how to ensure that they will remain secure, and respected both by the state and other citizens. This is because constitutions do not secure rights given that there are situations where even the law courts which are supposed to be custodians of these rights marginalise the citizens so much so that in some cases the citizens may have to engage in some muscle flexing to secure their rights. It must therefore follow that practice of rights makes positive contribution to the society that practices it.

SELF ASSESSMENT EXERCISE 1

Explain what the rights of a citizen are?

3.2 What are the Justifications of Rights?

Following the above expositions, it is clear that rights create liabilities for both the state and other members of the society. To this end, the practice of the rights can be justified as long as public good is promoted such as:

1. The development of the citizens through ensuring that they harness to the full the public goods so as to contribute in the same measure to the society. A good example here is the right to education. The denial of that right condemns the citizen to poverty and ignorance both of which not only stifles the development of his/her capacities but also stunts subsequent contribution to the society. Also, denying citizens the right to political participation not only stunts their political personality but also creates citizen apathy which retards the overall political development of the society.
2. By encouraging citizens to identify and support the state. Expectedly, if citizens enjoy all their fundamental rights there will definitely be ungrudging/discharge of their responsibilities. This will obviously be glaring in the forms of support which is crucial to any state such as the readiness to pay tax, the willingness to defend the fatherland, readiness to show patriotism and loyalty. In fact, though these are the regular responsibilities of a citizen, they are responsibilities which are gracefully borne by citizen whose rights are respected by the state.
3. By providing the citizen's rights as well as restraining from interfering with those rights which also impose limits on state power. This is because restraining state power protects the citizens from executive arbitrariness and oppression.

SELF ASSESSMENT EXERCISE 2

What reasons justify the provision of rights?

4.0 CONCLUSION

This unit has so far explained the institution of rights as the claims of citizenship on society.

5.0 SUMMARY

This unit addressed how citizens acquire rights and the reasons that justify rights.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain in your understanding when an individual moves from a subject status to the status of a citizen
2. Are rights acquisition justified?

7.0 REFERENCES/FURTHER READING

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MODULE 4 GOVERNMENT RESPONSIBILITIES

Unit 1	Theories of Rights
Unit 2	Practice of Rights and Responsibilities
Unit 3	Regime Types and Guarantee of Rights
Unit 4	Limitations on Rights and Public Authority
Unit 5	Government Responsibilities
Unit 6	Institutions of Governance and Responsibilities
Unit 7	Patriotism/ Loyalty

UNIT 1 THEORIES OF RIGHTS

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	The Coming into Being of Rights
3.2	Historical Theory of Rights
3.3	Categories of Rights in the Different Stages of History
3.4	The Social Contract Theory
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

There is a proliferation of theories of citizenship and they are as numerous in their particular preoccupations. In its historical usages, the theory of citizenship and the practices that developed around it have been predominantly confined to theories which seek to account for rights development in the modern state, entitlements, duties and responsibilities of individual members of a given political community. This unit will address the theories/origin and development of the rights. It will address it from a functional perspective by asking: under what foundation or prevailing social contract do rights rest? And to what extent are these general requirements for rights developed and institutionalised

2.0 OBJECTIVES

It is expected that at the end of this unit, the student should be able to:

- account for the historical processes in the development of rights
- explain under what conditions rights occur

- state the categories of rights and their ideological traditions.

3.0 MAIN CONTENT

3.1 The Coming into being of Rights

The emergence of rights is traceable to the doctrines of the *natural rights* of man in 17th and 18th century. The bane of *natural rights* is that each individual has certain inherent rights linked to human nature. From a moral point of view, these rights are more fundamental than the existing laws of society. This is because the latter (laws of society) is only legitimate to the extent that the natural rights of citizens are respected. In earlier times, 16-1700s, the view emerged that society was based on a contract between individuals, having both rights and duties. John Locke is considered to be the first exponent of the idea of natural individual rights, with his work *Two Treatises on Government* (1689) which was to find expression in the American Declaration of Independence (1776) and the French Declaration of Human Rights (1789) a century later.

SELF ASSESSMENT EXERCISE 1

Highlight the key points in the coming into being of rights.

3.2 Historical Theory of Rights

Prior to the emergence of the nation state, members of the society were mere subjects of their feudal lords or earl kings(feudalism) so much so that any gesture offered them as the members of the society from the lord or king was considered a favour. By virtue of their membership in the society or community they were not entitled to any right which the king was obliged to respect. Accordingly, in the course of the consolidation of the nation-state the monarchs made extra-ordinary demands such as forced levies including taxation, conscription into the king's army, and loyalty to the king and his cause on these subjects.

In fact, the special duties performed by these subjects subsequently earned them the right to make some claims or demands in return from the lord or king. Consequently, when the state was being institutionalised as an impersonal thing, the relationship between the subject and the state acquired the character of a public relationship rather than a personal relationship.

The subject acquired a new status that is the status of a citizen with rights and responsibilities separable from the favours and personality of the ruler with the state becoming institutionalised as an impersonal

association. Under this theory, rights became claims which the citizen are entitled to make against the state. They are so entitled because they have earned it through special services/duties rendered to the state.

Once rights became institutionalised as the claims of citizenship on society, later-day nation-states automatically embraced the practice of the rights and extended it to their subject's now-turned-citizens at independence. In post-colonial Africa –the historical sequence between performance of duties as a condition for “earning” rights was distorted. This distortion created by colonialism created a political culture that tried to socialise the local population as passive subjects. It underpinned the character of the African states in relation to ethnicity, minority issues well as the politics of citizenship. Thus, citizen's inherited bundles of rights without ever being made conscious of the reciprocal obligation of duties or responsibilities to society whose performance justified the granting of rights to the citizens of the early modern states. This theory captures the Nigerian situation where citizens make demands (rights) on society without worrying about correlative responsibilities to the state and their fellow citizens. The incidence of high rate of tax evasion is being traced to this divorce of the historical link between responsibilities or performance of duties and the grant of rights.

The historical development of rights expressed an exemplary development path is based on the history of the Euro-American countries. To Richard P. Claud (1976) a model for the legal-historical development of rights norms, explains rights developments as a result of internal processes. By means of this model, Claude, contended that there are four categories of rights and demonstrates each in certain conditions at different stages of European history. Sequel to this, he specified a precondition which evidenced in a secure and procedurally regulated legal system with a certain degree of predictability, fundamental norms and procedures for settling conflicts.

SELF ASSESSMENT EXERCISE 2

Account for the historical theory of rights.

3.3 Categories of Rights in the Different Stages of History

The four stages in the development process are.

First stage. Here the fundamental personal liberties are based on a secularised and universalistic view of legitimacy of the state where every single individual has a right to a sphere of liberty. In this stage “the private sphere” where the authorities cannot legitimately trespass was separated from “the public”. In sum, a change in the views on

legitimate authority is an ideological precondition for the limitation of political power or the principle of the division of power.

In the second stage defined the civil rights. It is represented by the French Declaration of the Rights of Man and the Citizen. In this stage, the demands for legal guarantees for the individual coincided historically, with the emergence of the bourgeoisie and the development of a capitalistic market economy. Expectedly, both the roles of the individual and the authorities changed. The former (individuals) was perceived as enterprising and active while the latter (authorities) was seen as correspondingly passive. The essence of the role is simply to guarantee the liberty, property and security of citizens in line with the liberal constitutional state where the laws are designed to prohibit actions harmful to society. In sum, political life came to be conceived as a market where the acts of the individual, based on his/her interest is geared towards a common good.

The third stage which witnessed the introduction of universal suffrage had legal equality extended to citizens to include political equality. The granting of equal political rights or equal political citizenship is as a result of an elite strategy to prevent socially based conflicts that might ensue in a divided class system. Accordingly, political activity in parties, voluntary organisations, trade unions, etc. characterised this stage. Consequently, this precipitated the transcendence of the conception of political life from the idea of the market where the free scope of individuals brings to the fore the common good, to an arena for inter-group negotiations.

In the *fourth stage*, rights include social and economic goods also known as welfare rights. The realisation of social and economic rights is dependent on the economic potential, administrative capacity and political will preconditions. Very importantly, however, the main focus of this stage is on the positive obligations of the state to secure the social goods that ordinarily may be out of the reach of the individual. Also based on this stage the personal liberty rights, civil rights, right to political participation and social and economic welfare rights known as *civic rights* emerged.

In sum, it is clear from the above, that the first and second were concerned with establishing negative rights which limit the authority of the state. Thus, the first stages were primarily concerned with establishing negative rights and limiting the authority of the state. The last stage was, however, concerned with the positive obligation of the state to secure the social goods which the individual may not acquire ordinarily. And, in the last two stages more people came to enjoy rights as evidenced in the establishment of universal human rights.

However, it appears that Claude's explanation of rights development as a result of internal development process may not be plausible for non-European countries. This is based on the fact that the non-European countries are not influenced by internal process but rather by the outside world. By and large, an important fact to note is that it demonstrates how human rights may be seen as part of a specific historical development in Europe, and that the rights responded to problems which are today founded throughout the world.

SELF ASSESSMENT EXERCISE 3

Explain the categories of rights in the different stages of history.

3.4 The Social Contract Theory

One aspect of the social contract theory is accredited to John Locke who holds the view that man had liberties and rights that antedated political society. Thus, it could be said that man in pre-political society (state of nature) was not completely brutish and without dignity. In effect, when he entered into this political society, respect for those his pristine rights was as a condition for conceding loyalty to the state or rulers of the state. In this sense, protection or preservation of the fundamental rights of liberty, property and pursuit of happiness became the first charge on the state. Accordingly, a state that destroys or dishonours the basic rights of the citizen loses its right to command the loyalty of the citizen.

Within the context of the modern liberal democratic state which derives its liberal tradition/Ideological justification from Locke's social contract theory of natural rights, rights operate as structural device for limiting governments. In other words, the liberalistic tradition that questions: "to what extent do the authorities' interfere with my life? is primarily about the individual's sphere of liberty. This sphere of liberty within this tradition includes life body, property, freedom of belief and action and dignity. The right to property is considered to be among the fundamental natural rights and is deduced from the right to life (CF.Nozick, 1974). In order to prevent infringements of these liberties, the state must be bound by the constitution and its main task should be the safeguarding of the personal and civil rights of its citizens. The liberal tradition thus speaks in favour of a constitutional state, limited state authority, and respect for the personal and civil rights of the individual.

The liberal-democratic state is evidenced in a democracy which restrains the arbitrary exercise of state power and the respect for the rights of the citizens to place a limit on the scope of the state's power. The democratic tradition inspired by Jean-Jaques Rousseau which is centred on: "who governs me?" is founded on another concept of the liberty of

man i.e. liberty in the sense of autonomy or self-determination. In effect, man is autonomous only if he/she abides by the rules he /she lays down. Thus, the autonomy of the individual is realised through participation in the collective decisions of political life i.e. the right to political participation is of importance for the realisation of human dignity.

This social contract theory has also provided a basis for articulating a theory of limited political obligation or on the exercise of state power. Thus, if the state must enjoy its rights to command the obedience of its citizens, the rights and sensibilities of these citizens must also be respected. A state which disrespects the rights of its citizens and in the process offends their sensibilities by sundry illegitimate conduct and arbitrariness' risks losing their automatic propensity to obey the state.

The third concern to demands for rights is *the fundamental human need for well being*. The presupposition of this concern is that all have the same rights to satisfaction of basic material needs being equal in value. This is the basis of the socialist tradition, and in contemporary thinking on rights and distributive justice. Modern contractarian theories (which also draw on the liberal and democratic traditions) elaborate on the line of thought that cooperation in an orderly community creates an economic surplus. The existence of a state thus further claims for a distribution of resources which is such that no-one is left worse off than they would be in a situation without cooperation. In other words, it provides all citizens with the *rights to social and economic welfare*.

SELF ASSESSMENT EXERCISE 4

Explain the Social Contract Theory of Rights.

4.0 CONCLUSION

This unit has explained so far the theories/ origin and development of rights; also how rights are products of European philosophy of the 17th and 18th centuries, developed and articulated through Western ideological schools of thought.

5.0 SUMMARY

This unit addressed the emergence of rights and the historical and social contract theories with the different ideological traditions.

6.0 TUTOR-MARKED ASSIGNMENT

1. What prompted the emergence of rights?
2. Explain the theories of rights.

7.0 REFERENCES/FURTHER READING

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UNIT 2 THE PRACTICE OF RIGHTS AND RESPONSIBILITIES

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Categories and Contradictions about Rights
 - 3.2 Nature of Rights
 - 3.3 Controversies about Rights
 - 3.4 Definition of key Concepts
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

8.0 INTRODUCTION

This unit will examine the various types of rights in the international bill of human rights which vary in character and function as well as the contradictions in relation to claims. It will also assess the controversies by both scholars and societies who have differed in their conception of whether rights are the property of the individual citizen or property of the state. The answer to these controversies will be premised on the re-examination of the identification of the origin of rights in the theory and practice of medieval politics. This unit will therefore examine the institution of rights as the claims of citizenship on society and later-day nation-states automatic embrace of the practice of the rights which got extended to their subjects now-turned-citizens at independence.

2.0 OBJECTIVES

It is expected that at the end of this unit, the student should be able to:

- state the various positions in the controversies about rights
- spell out the contradictory views about rights
- discuss the various natures of rights

3.0 MAIN CONTENT

3.1 Categories and Contradictions about Rights

Given that there are various types of rights in the international bill of human rights which vary in character and function there are bound to be contradictions in relation to claims. To resolve this contradiction, this

section will examine the issue based on the following two questions: do these conflicts actually exist? And which rights should be given priority when a conflict does occur? To proffer solution six categories of rights will be identified.

Personal Rights: These include protection against interference, torture, kidnapping and arbitrary imprisonment, etc.

Civil or liberal rights: such as the rights of free speech, free press, the rights to assembly and organisation.

Political Rights: These include the right to participation, the right to vote and the right to be voted for.

Social and economic rights: The rights to at least a minimum of vital necessities such as food, shelter and aid.

Cultural or national rights: include the rights to express one's own culture and language, the rights to self determination, protection of indigenous populations and their environment and the protection of minorities.

Solidarity rights: The rights to development, to certain social and physical environment, and the rights to peace.

The personal, civil and political rights fall into the category of what is known as first generation of human rights ascribed to the French philosophy of enlightenment and French and American human rights declarations from the late 1700s. These rights which are older than other categories also heralded the social, economic and cultural rights, termed the "second generation" of human rights often referred to as the socialistic contribution to international human rights. This is because the labour movement as well as some religious organisations played a crucial role in its promotion. The difference between the former and latter is evidenced in the two human rights conventions adopted by the UN in 1966: the international Convention on economic, social and Cultural Rights and the International Convention on Civil and Political Rights.

A third generation of human rights came to be known as "solidarity right". These rights as stated in the UN Declaration of 1986 are the right to a clean environment, the right to peace and the right to development. These rights are often considered to be the Third World countries' contribution to the international norms of human rights. This major difference between third generation rights from the first and the second generation is in the specification of the right to a process instead of a given standard of development.

The third generation category of rights has been criticised on the following: how can “development” be characterised as a right? Does it have a time span which ends once the public good has been accepted? Are the rights to structural conditions necessary for the realization of one’s social and economic right? The answers to these questions were aptly addressed by Phillip Alston who argued that “in as much as it is apt to explain the connection between human rights and structural factors vital for their realisation, it may be unnecessary- it may even be counter productive- to formulate structural factors as rights (Cf. Alston 1982 and 1984). This is against the background that the right to development is defined as the right (or duty) of a state, given rise to potential conflicts between individual human right and the right of the state (the group) to development which will invariably open up for the use of individuals as means to promote collective development. Individual human rights are used by the individual against the state while collective right imply that group, or the state itself, are granted right of equal force. Accordingly, the inclusion of collective or group rights among human rights instrument has been criticised on the probability of undermining human rights as protection against the state. The conflict is based on the conclusion that there are situations where collective rights are bound to violate individual rights, that quotas introduced to secure a minority the right to non-discrimination may conflict with individual rights to non-discrimination, and that the rights of minorities to self-determination in some cases will undermine the rights of the state to integrity and sovereignty.

However, despite the critique, it is agreed that special rights protection may be necessary in order to secure the minorities rights with other citizens.

In sum, whether the right to political participation is incompatible with social and economic rights borders on understanding of the parties involved.

SELF ASSESSMENT EXERCISE 1

Examine the categories of rights in line with the contradictory positions.

3.2 Nature of Rights

There are two natures of rights namely: “negative” and “positive” rights. These natures stemmed from the classical expression in Isaiah Berlin’s essay “Two concepts of liberty” (Berlin, 1969). Negative rights in tandem with negative liberty; which means freedom from interference serves as a protection against interference of others- primarily the state. These rights apply the first two categories described above: personal and

civil rights. The proponents of negative rights-the right to non-interference-are libertarian(Libertarianism- an extreme variant of the liberal tradition) scholars such as Hayek (1948; 1967) and Nozick (1974) who have argued that negative rights are to be given priority- as opposed to the democratic tradition, which stresses the right to political participation. Here, personal, civil, and political rights are merged into one single category because there is no shortage of rights hence no need to withdraw right from some people so that others will have them.

Positive rights also are more or less like positive liberty which implies freedom to act. Practically, these are the rights to participate in political decision making as well as social and economic rights. In contrast, positives rights are defined as rights demanding substantial interferences. The implication of this is that if rights of some people are to be fulfilled, others must sacrifice their rights. It is paramount therefore, to know that the dichotomy between “rights that cost and the rights that do not cost” is contestable given that negatives rights for instance would imply social costs for police, legal systems and electoral institutions. This position is important in the sense that it explains the notion that the granting of “negative” civil and political rights is incompatible with the fulfillment of “positive” or ‘substantial” social and economic rights. In the same vein, the fulfillments of positive individual rights to food, medical care, shelter and education is hinged on negative rights being encroached upon.

It is a *priori* possible to conclude that conflicts will arise, that they are practically inevitable: obviously, conflicts are experienced between negative and positive rights. For positive rights, for instance, participation in the political process may cause decisions that are in conflicts with negative rights to protection against interference. In other words, the conflicts of rights have necessitated the discussion on which rights are the more basic and which one to be given priority when conflicts occur.

SELF ASSESSMENT EXERCISE 2

Itemise and explain the nature of rights?

3.3 Controversies about Rights

Scholars and societies have differed in their view of rights in relation to if rights are the property of the individual citizen or that of the state. The milestone in resolving these controversies can be traced to two features of medieval Europe’s political and intellectual life. These are evidenced on the one hand, in the doctrine of ‘*Natural law*’, and on the other, as symbolised by the political practice of extracting *charters on liberties* i.e

documents such as *Magna Carta* (one of the milestones in the history of civil liberties). The theory of rights in the Middle Ages rested on the idea of Natural Law. The Natural law theorists differed on many issues, but their central proposition is that universal moral standards exist and the rights of individuals have-whether claims, liberties, power, or immunities- are based on these moral standards and accompanied by the general duty to adhere to these standards. The important feature of this position is that it is not limited in application to any particular legal system, community, state, race, creed or civilisation. Some natural law theorists however, believed that Christians were under slightly different obligations from non- Christians by virtue of the acceptance of Revelation by the former, but, in principle, everyone was subject to natural law and everyone was capable of discerning its contents and standards. The origin of much of the rhetoric of universal human rights is embedded in the natural law.

Essentially, though natural law provided the basis for a theory of rights in the Middle Ages; however, in the rougher world of medieval political practice, rights had rather different connotations. Here, a right was a concession one extracted from a nominal superior, probably by main force as evidenced in the great charter of *Magna Carta* (the most significant component of British constitutional bill of rights) through which the barons of England obliged King John 11 in 1215 to grant to them and their heirs in perpetuity a series of *liberties* which are, for the most part, vary and related to particular grievances. A list of practices by the king which was deplored by his subjects and which he is being forced to abjure. His subjects obtain thereby a series of rights, liberties, powers, and immunities. The Great Charter on the other hand, as a whole is based on the principle that the subjects of the king owe him duty only if he meets their claims. This is clearly a political bargain or contract. There is no necessary incompatibility between the rights established by political bargaining between monarch and subjects and the rights entailed by natural law- for the most part; the articles of *Magna Carta* would pass the test of reasonableness and human flourishing, although the liberties granted by the king seemed to have limited general applicability. Owing to this general compatibility there is the possibility to forget that these two sources of the notion of rights are actually based not simply on different, but on opposed principles. Whereas rights based on natural law are derived from reason and the notion of human flourishing and thus generates universal rights and duties, 'Charter Rights' simply described in legal terms are as a result of a political bargain or contract confers local and particular liberties. Also, natural rights are universal in time and space, while contractual rights are by definition limited to the parties to the bargain, and thus restricted in time and space.

But later-day American revolutionaries who were fighting for their rights were not impressed by Magna Carter. Their reason is that rights do not belong to the king or state to be given out. Rights belong to people. Thus, whereas the British accept that the state or king can give rights, Americans reject that view of rights, maintaining on the contrary that rights belong to the people. This notion came to be broadened into an account of the rights of citizens and embodied in the positive law of a few countries in the early modern-era. The US Bill of Rights' of 1791 is the best example. Thus, the American Bill of Rights in the form of the first ten amendments to American constitution was drawn by people, inscribed in their constitution and imposed on the state. It is pertinent to also recall that in 1789, the French Revolution widened the scope with the Declaration of the Rights of Man and the Citizen. Politics and thought in the revolutionary era of the 1790s also began tentatively to broaden the definition of Man by recognising the rights of women via campaigns against the slave trade, those of non-Europeans, positions built upon in the 19th century. These preliminary moves set the scene for empowerment/women's rights of the twentieth century and especially of the post-1945 era.

However, given that the imposition of rights on the state through the constitution of course does not automatically guarantee that right will be secure, both Ernest Baker and Harold Laski hold the view that although rights derive from the humanity and the personality of the citizen, rights that are legally valid are those recognised and enforced as law by the state. This dual character of the source of rights creates some problems. In some societies, rights that should be recognised in the interest of the people are not so recognised by the state. And there are states that give legal backing to rights that should not be right because they offend the dignity of the people. A good example of the latter is the slave-owning state which recognises rights in persons as property or presently homosexuals/lesbianism. At this point, it is pertinent to know if the hands of the state can be tied by the rights of individual citizens or should citizens settle for only those rights which the state is willing to give? Western societies with their tradition of *atomistic individualism* insist that the state should be limited by the rights of individual citizens. For Hobbes, the archetypical atomist both individualism and utilitarianism (Hobbes argues that utilitarianism can be atomist, economic etc) are related. But African societies argue the communitarian nature of their society is the basis for denying any inalienable rights to individual citizens. The argument is that since rights exist only in society, it is the convenience of society that should decide which rights should be respected, not the convenience of individuals. But accepting this view exposes the citizen to the arbitrary exercise of state power, and arbitrariness which is usually justified in Nigeria in the name of state or national security.

SELF ASSESSMENT EXERCISE 3

Explain your understanding of the controversies over rights.

3.4 Definition of Key Concepts

(a) Atomism

This is a theory about the nature of the society which maintains that the individual with given capacity wants and needs constitute the whole elements of which societies are composed. And that a society is the aggregate of the component elements; hence do not constitute new wholes independent of its parts.

(b) Individualism

This means placing the individual at the centre of the society. The essence is that the interest of the individual rights is a duty of the state to fulfill. This is invariably one of the conditions of civil society.

(c) Utilitarianism

This concept in its broadest sense assumes that nothing is desired for its own sake, except pleasure. Thus, the utility of an action is to create pleasure and not pain. Mill defined utilitarianism as the creed which accepts as the foundation of moral, the utility or the greatest happiness holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to promote the reverse of happiness. Expectedly, happiness is intended pleasure and absence of pain which engenders unhappiness and deprivation of pleasure.

SELF ASSESSMENT EXERCISE 4

Define the concepts: Atomism, individualism and utilitarianism

4.0 CONCLUSION

This unit has explained the contradictions in the character and function of rights. It also tried to resolve which rights should be given priority when a conflict does occur? It also explained the two natures of rights namely: “negative” and “positive” rights.

5.0 SUMMARY

This unit addressed the controversies about rights and the nature of rights.

6.0 TUTOR-MARKED ASSIGNMENT

- (1) What are the various controversies about rights?
- (2) What are the contradictory views about rights?
- (3) Explain the various natures of rights

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UNIT 3 REGIME TYPES AND GUARANTEE OF RIGHTS

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What is a Regime?
 - 3.2 The Nexus between Regime Types and Guarantee of Rights
 - 3.3 Contending Issues from the Classifications
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit seeks to examine which type of regime observes or guarantees the fundamental human rights of citizens based on the assumption that the manner by which power is legitimated and organised determines the relationship between rulers and citizens.

2.0 OBJECTIVES

It is expected that at the end of this unit, you should be able to:

- define a regime
- list the types of regimes
- Explain the contending issues.

3.0 MAIN CONTENT

3.1 What is a Regime?

A regime is understood “as a set of rules, conventions and norms ruling the governmental process” (Kimber, 1989:201). To this end, a regime is determined based on the manner by which power is legitimated and organised, and the relationship between rulers and citizens in relation to the guarantee of rights.

SELF ASSESSMENT EXERCISE 1

What do you understand by a regime?

3.2 The Nexus between Regime Types and Guarantee of Rights

Against the above background, the limits of rights protection or guarantee of rights will be examined under different regime classifications.

1. **The quantitative empirical analysis:** For this analysis, Dahl (1992) tried to come to terms with the degree of rights protection under different regimes based on a limited set of political rights and liberties. To this end, he classified 170 independent states under four criteria: free and fair elections, freedom of expression, freedom of political organisation, and availability of alternative sources of information. The eventual conclusion was that the most comprehensive systems of political rights and liberties in the contemporary world exist in democratic countries. This analysis, however, has been criticised on two grounds. First, that the consideration of rights only in relation to political rights and liberties is limited. Second, that the classification of regimes based on uni-dimensional democratic (or polyarchal)-authoritarian distinction reveals limited information about the internal political forces of regimes that influence human rights performance and developmental potential.
2. **The historical-comparative method:** This method, according to J. Linz (1992) aims at addressing the critique that there are other important distinctions and features necessary to rights performance against the former. In effect, this method, unlike Dahl's concentration on political rights dwelt mainly on civil and political rights based on the International Bill of Human Rights under four classified categories: sultanistic, totalitarian, authoritarian and democratic political systems.

(a) Sultanistic Political Systems

This is a political system with a personal ruler ship structure that is premised on the loyalty and interests of followers, family, friends or tribes. In other words, it is characterised by the privatisation of state apparati. Also, due to the arbitrary will of the ruler, governmental actions are not under the control of any institutional norms or commonly accepted principles. In sum, under this political system there are no predictable rule of law; hence, it is obviously the least in guaranteeing fundamental rights of citizens or limits the violation of rights.

(b) Totalitarian Political Systems

This system is characterised by political terror and arbitrary use of politically organised violence against groups and individuals. According to Linz, only Hitler's Germany and Stalin's Soviet Union may qualify as totalitarian regimes. More importantly, the system is embedded on the ideology where political participation is either forced or highly rewarded.

(c) Authoritarian Political System

This political system is couched in between the first and second political systems but unlike the two, this system does not embark on the utopian goals of totalitarianism. It is also not characterised by the privatisation of the state apparatus associated with the first system. In effect, it is defined as a system with limited and not responsible political pluralism; meaning that it is a system that is not open and accountable to the citizens. In this system there are no guiding ideologies but "distinctive mentalities" as well as no extensive political mobilisation. Ironically, though this system tolerates free exercise of religion, however, the liberty it guarantees is the right to be politically indifferent.

(d) Democratic Political System

In this political system, regimes are expected to respect human rights. To this end, it is a political system characterised by the guaranteeing of fundamental human rights such as: right to expression, information and organization for the purpose of a free competition between leaders claim to rule by non-violent means.

It is paramount to state that though Linz was cautious about stating that 'democracy' as a form of government is the favoured regime given that it provides the best guarantee against human rights violations, it is glaring that it does not protect all human rights under all conditions. This is as evidenced in the decimal protection of social and economic rights and the rights of minorities which remain perennially threatened. Obviously, this is contrary to Dahl's position that the most comprehensive systems of political rights and liberties in the contemporary world exist in democratic countries. Although democratic countries vary in their protection of political rights, clamouring for democratisation will engender increased protection of human rights in non-democratic countries.

3. **Historical-comparative method:** Donnelly and Howard (1986) approached the question of human rights 'cautiously' avoiding the democracy category in view of the controversies of the Dahl's propositions. This method is also explicitly in line with all

categories of rights as stated in the International Bill of Human Rights. The proponents distinguished between communitarian (divided into four sub-groups: communist, corporatist, traditional and developmental) and individualistic regimes (sub-divided into liberal and minimal regimes).

a. Individualistic regimes

For Donnelly and Howard (1986:805) in this regime, though inequality is not overruled however, the principle of concern and respect does imply that basic economic welfare, degrading inequalities cannot be permitted. The evidence of permissible inequality is evidenced in the fact that the state should treat each individual as morally and politically valuable. The *minimalist state* on the other angle emphasises liberty and ensures that the individual is protected against violations of personal liberties. In sum, human rights cannot be respected in minimal regimes given that it allows degrading inequalities.

b. Communitarian Regimes

These are concerned ideologically and practically about the community. The implication of this is that priority is accorded the state over individuals who in line with their duties and roles are expected to respect only members of the group or society. This regime obviously is incompatible with the idea of human rights given that the system hinders individual autonomy. As a result, in the *communist* regimes the collectively defined goal of building a society is based on a particular idea of the good, conflict with the civil and political rights of the individuals.

In *corporatist* regimes, the collectively defined goal of building a society is structured and premised around interest-group representation. Accordingly, it is split into hierarchical structures that are non-competitive, which definitely violate political rights by engendering political conflicts (such as labour conflicts). The *traditional* societies are essentially based on a harmonious, organic conception of unity between individual and society. This is also in consonance with respect for human rights in the sense that individual goods can only be achieved if the individual is a part of a larger collective i.e. the family or an ethnic group. For the *developmental* regimes, governing is by force. In other words, repression is justified as a necessary feature in a scheme for economic development. In this regime too, individual rights in particular *vis-a-vis* the state, are set aside thereby also violating basic rights.

SELF ASSESSMENT EXERCISE 2

Mention and explain the regime type that guarantees rights.

3.3 Contending Issues from the Classifications

1. The three classifications agree that human rights are best guaranteed or protected within the democratic regime i.e. liberal democracies (liberalism), a regime that ensures the provision of a certain level of material well-being to the citizens. However, the last classification stressed that only certain types of democratic regimes respect basic rights. For instance, though minimal and liberal regimes are democracies only the latter likely guarantees the protection of human rights and the minimum of welfare.
2. The first and second categories were rather repetitive in their “minimal definition” of political democracy as a political system that protects some categories of human rights like the freedom of expression and political organisation, access to information and free elections.
3. The third classification highlighted that in other social systems there are competing views on human dignity because of the denial of the rights of men and women to make and have enforced, equal and inalienable civil, political, economic and social claim on the state. However, its inclusion of a wider range of rights expectedly absolved it from the problems of categories of human rights restriction like the former but one of its shortfalls just like the others is the failure to capture the varied shades of human rights observance in the different regimes.

SELF ASSESSMENT EXERCISE 3

Explain the contending issues from the classifications.

4.0 CONCLUSION

This unit examined the limits of rights protection or guarantee of rights under different regime classifications.

5.0 SUMMARY

This unit analysed what a regime is, the different classifications and the contending issues.

6.0 TUTOR-MARKED ASSIGNMENT

- 1) What is a regime?
- 2) Explain the different classifications of regimes and their guarantee of rights.
- 3) Explain the contending issues in the various classifications.

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UNIT 4 LIMITATIONS ON RIGHTS AND PUBLIC AUTHORITY

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Defining Public Authority
 - 3.2 Can a Limited Public Authority be Achieved?
 - 3.3 Individual Rights and Limitations of Public Authority
 - 3.4 Public Authority and Limitation of Rights.
 - 3.5 Practice of Rights in the Real World
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

The central concern of this unit is to examine the notion of individual rights as justification for the limiting of public authority (defined here as synonymous with the state of its agent, the government). In view of the above position, this unit will attempt a critique of the modern liberal state's position that individual rights should be the basis for limiting public authority. Thus, it will articulate the implications of the analysis for the achievement of limited government in a non-Western political system like Nigeria.

2.0 OBJECTIVES

It is expected that at the end of this unit, the student should be able to:

- define public authority
- how a citizen's right can limit public authority
- analyse rights and public authority conflict situation
- explain the practice of rights in the real world

3.0 MAIN CONTENT

3.1 Defining Public Authority

Authority is the right to command and be obeyed. However, to specifically understand what the nature of public authority is, let us begin with, John Day's argument that "there is no rationality in obeying the commands of authority".

What is implied here is that there is a nexus between authority and the obligation to obey for those who accept it. To accept that the obligation to obey is embedded in the concept of authority implies that a critical attitude to authority violates the logic of that concept. In effect, what goes with authority is an attitude of “willing suspension of disbelief” or inquiry. However, since the nature of authority by its nature forecloses criticism against it as the basis for determining its operation within limits, then there is actually no way of deciding when authority has exceeded its limits, in a situation where a citizen opposes it. This is as evident in relation to political or public authority which is the height of the hierarchy of authorities.

Public authority is backed up by coercive power in the sense that accepting presupposes submitting to coercive power of the state which cannot be consciously limited. The only limit to power is its inability to achieve what it wants to achieve. To this end, the power component of public authority reinforces its essentially “not limitable” character because of the despotic nature of authority.

Public authority therefore can be conceived as ‘the everlastingly good principle of social unity in the pursuit of the common good (Yves Simon). This concept is better understood if approached from the perspective of conflict of rights which is premised on:

First, the fundamental human rights which the individual is presumed to have against society, defined here to include both individuals and the state or its government. Complementarily too, this rights imposes on the state and its other citizens the correlative obligation of not interfering with the citizens enjoyment of those fundamental rights.

The second is the states or society’s right of public authority which places the individual under complementary obligation of obedience and compliance to the political authority of society.

SELF ASSESSMENT EXERCISE 1

Explain your understanding of public authority and the nexus with the conflict of rights situation.

3.2 Can a Limited Public Authority Be Achieved?

A government of laws is by definition a limited government. In modern Western political theory, there are suppositions that respect for individual rights would constitute the basis for the limitation of public authority. Accordingly, though the non-western political theory and the

socialist theory and practice agree on the need to limit government, however, on the contrary, they do not accept that security for individual rights should be the basis for limited government. In view of the rejection of security of individual rights as a basis for limiting government the pertinent question then is “can limited government be achieved? Obviously, the answer cannot be in the affirmative given the difficulty which leaders of both the socialist states and non-Western world have in exercising political authority with restraint coupled with cases where citizens’ rights are casualties to arbitrariness from government systems. This is bearing in mind that societies which have existed without the practice of rights (especially the practice of its liberal individualistic variant) were not, because of that, victims of limited government.

Thus, irrespective of the deformations of the absolute monarchies, Western political theory and practice have always upheld the notion of limited government contrary to non-Western theory which does not deny the notion of limited government though upholding it has not been a central presupposition of their political theory.

This makes it important to raise two questions:

One, why limit public authority?

Two, what is the reason for upholding this basic Western liberal ideology?

For the first question, given that the government of men is by its nature imperfect and liable to do wrong, it becomes important or justified to limit government. The premise of this limitation springs from the fact that a limited government is a government of laws (against one of men). In effect, a reason for limiting government then is to prevent it from doing wrong or too much wrong which even Plato with all his faith in “philosopher Kings” ended up preferring. However, is it to be supposed that a limited government is good? Experience has shown to the contrary that to limit a government does not automatically guarantee its goodness. For instance, if we take ability to promote egalitarianism as one measure of governmental goodness, a government which condones gross inequalities of wealth and income because it is constitutionally barred from interfering with the right to private property of individual citizens has quite a problem attaining goodness, at least from the point of view of social justice.

Besides, there is even a good reason to believe that limiting government reduces their ability, if the will is there, to foster positive freedom. If limiting government does not guarantee goodness in the two senses

indicated above, those who are preoccupied with securing “good” government would still demand justification for limiting government.

The second question finds leaning on the fact that a political philosophy which is based on possessive individualism is different from power. Importantly, proponents of this liberal individualism, beginning from Montesquieu, Bentham and Mill define the goodness in terms of protection and advancement of the individual’s rights and interests. Also, Locke, for instance, sees the end of all governments to be protection of life, liberty and property and goes on to require, that a government that is destructive of these rights loses its rights to the people’s obedience. In accordance to this end of government is the American Declaration of Independence; a document which was heavily inspired by John Locke. The Declaration of Rights spelled out that the objective of administration and government is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it, with the power of enjoying safety and tranquility, their natural rights and blessing of life. Whenever these objectives are not obtained, the people have the right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

More over, furthermore:

“All men are born equally free and independent, and certain natural, inherent and inalienable rights; among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property and of pursuing and obtaining safety and happiness”(Article, section 1, Declaration of Rights, quoted in Huberich, 1947:853).

To this school of thought, the self was secured by rights and obligations. In other words, the bane for limiting government is to prevent it from invading the rights and freedoms of individual citizens.

SELF ASSESSMENT EXERCISE 2

What constitutes the basis for the limitation of public authority?

3.3 Individual Rights and Limitations of Public Authority

Based on this analogy, it appears that permitting individual rights to limit public authority presupposes that the former is superior to the latter. But is this the case?

To resolve the conflict of whether individual rights are superior to public authority will be approached from at least three possible positions:

- a) **By constructing a hierarchy of rights based on the functional necessity of the society:** This is in the sense that the right of public authority derives from the principle that there are two separable interests in a society: called the general will, and the individual interests, of citizens qua citizens. Thus, while individuals pursue their own interests, society has endowed its agent, the government, with the right of public authority to defend and promote the interest of the society given that the whole practice of rights is meaningful only within society. In other words, it is public authority acting in authorisations by the society that creates the condition within which the practice of individual rights is achieved in society. It is therefore evident that the right of public authority as an agency of society is superior to individual rights which require, as their prior condition, the functioning of society. A hierarchy of rights constructed to resolve the conflict of rights here would place the right of public authority above individual rights. And no matter how 'fundamental', 'natural', or 'inalienable' the right is, as long as it is the right held by individuals, it cannot in principle be superior to public authority. This is in accordance with Yves Simon's definition of public authority as '...the everlastingly good principle of the social unity in the pursuit of the common good.
- b) **The assumption that both the rights of individuals and the state's rights of public authority are equal:** This invariably will precipitate looking for some external standards to rights consideration so as to decide which of the two groups of rights should prevail. This search for external standards leads us to the principles on which rights are founded. Lawrence Howarth has suggested three such principles- that of utility, equal right to freedom, and equal shares. The utility principle dwells on which right carries greater functional utility or consequence for society or on the contrary, which rights, if enforced, carries more functional consequence, if not observed? The answer obviously is implied in the hierarchy of rights. The question, 'which rights if enforced, carries more functional consequence, if not observed' can be resolved by the fact that rights create obligations (duties) and obligations are not beneficial in their consequences for those who are bound by the obligations. This is so because when society gives effect to its right of public authority, some individuals suffer as a result of the obligation. More over, the society is a collectivity, and some other individuals as ordinary members, should gain because such right could only have been exercised in the public interest. Also, when individuals exercise their private right, again by definition in their interest, the harmful consequences arising from the correlative obligation is two-fold. First, it falls on the society as a collectivity, and it falls

on other members of the society in the capacity as private individuals. Because (a) the harmful consequences arising from the exercise of public authority are less than those arising from the exercise of individual rights, and (b) the functional consequences of the former are greater than those of the latter, therefore right of public authority should be upheld against individual rights.

More importantly, is Hart's principle of equal rights to freedom which explains that because individuals have consented to society's right of public authority, they are under obligation to respect that right even when its exercise conflicts with their freedoms. And they cannot even revoke it because it is a contract they have consented to. The principle of equal share means that the right of public authority which is possessed by a collectivity, society's right in this sense being a summation of individual rights-should have more weight than the individual rights of citizens.

- c) The third approach is to take the problem out of context of conflict of rights and place it in the context of qualifications of rights. In this case, individual right is regarded as qualifications on the right of public authority. But can one right be used to qualify another without accepting the implied superiority of the right that is the qualification? To this end, having argued that the superiority of the right of public authority, if any right is used to qualify the other, it should be this superior right. It is important to note that the qualifications of rights have to be in consonance with the standards and principles which are external to rights. Obviously, such external standards end up in favour of public authority.

SELF ASSESSMENT EXERCISE 3

Explain how individual rights can limit public authority.

3.4 Public Authority and the Limitations on Individual Right

Limitation broadly to the Chambers English Dictionary means boundary: that which may not be passed: restriction, the unspeakable extreme of endurability. However, within the context of this course, it is understood as the "balance between the rights of individuals and the legitimate concerns of the state, which has to take into account that the general good is met through the device of permitted limitations" (Rosalyn Higgins quoted in United Nations, 1988). This is because very few individual rights are absolute. A cogent example of

this right is the prohibition against torture which in most cases are meted out without the consent of the accused. Specifically, the Nigerian Court of Appeal defined torture to include “mental harassment as well as physical brutalisation while inhuman treatment characterises any act without feeling for the suffering of others. Degrading treatment was articulated as the element of lowering the societal status, character, value or position of a person”. And yet a large number of people are under torture and inhuman or degrading treatment, and in this regard the law is helplessly impotent because of the very social structure of the society. It is surely inhuman and degrading too for an able-bodied individual willing to work to be a victim of unemployment. This situation definitely constitutes torture.

Most rights may be qualified; in some situations given that certain conditions are met. Also, a law that prescribes the limitation must be in use and accessible and of common knowledge to all. The question of the law being accessible and known is not only to counter secrecy but justify that a restriction upon the right is a necessity. This is as evidenced in a restriction being premised on reasons of public order, public health or state security. Consequent upon the above, in situations of emergency states are permitted to suspend their obligations to guarantee these rights for as long as the emergence lasts. However, it is important to note that not all rights can the state derogate from irrespective of the circumstances. For example, no emergency can justify torture nor can it explain the disregard a person’s freedom of thought, conscience and religion.

Or better still, explain the limits of the basic civil and political rights that exclude the “private” spheres of marriage and family life from democratic scrutiny. It is clear that there are detailed and context specific accounts of a vast array of culturally sanctioned practices that are classified as violence against women. These practices take place in a multitude of arenas: the household, the community, schools, workplaces and streets. However, for instance, even though the Nigerian Constitution prohibits torture, inhuman and degrading treatment dehumanizing treatment is still meted out particularly to the poor, rural and uneducated widow. Widow maltreatment includes subjecting them to physical indignities, which include in some extreme cases, compelling the woman to drink the bath water of a husband’s corpse, confinement for long periods, shaving her hair. In the same vein, is the problem of Female Genital Mutilation (FGM) for instance, is still widely practised in many communities as a means of controlling women’s sexuality in Nigeria and there is no direct law prohibiting it. This is in full consideration of the health hazards as well as upon the interpretation of the right to life guaranteed also in the Constitution tantamount to a threat to life. More over, if the justification is to control

female sexuality, it is also discriminatory contrary to the provisions of the Constitution premised on elimination of all forms of discrimination. The legal system appears ineffective in dealing with this problem. Thus, unless the victim is willing to initiate legal action at the material time, she may be unable to obtain redress or prevent the denials of her fundamental freedom.

SELF ASSESSMENT EXERCISE 4

How do the limitation of public authority affect the right of citizens?

3.5 Practice of Rights in the Real World

The contentions evident from the conceptual analysis that public authority can be limited in the practical world by individual rights will be examined in line with the practice of rights in the real world so as to confirm or contradict the conceptions alluded to in the conceptual analysis.

While the proponents of individual rights are necessarily not seeking to restrain public authority from interfering with all forms of rights that the individuals lay claim to, they, however, seek to restrict public authority from interfering with fundamental human rights (natural rights). The pertinent question therefore is “are there such rights”? That is, ‘the imprescriptible rights possessed by all men whose infringement by the state strictly entails the forfeiture of that state’s authority that society comes to a distinct disadvantage by refusing to fulfill its obligations of respecting such rights in the practical sense’?

In proffering an answer to this, T.H. Green argues that “... a right against society... as a right to act without reference to the needs of good of society.... is impossibility. Similarly, Carl Friedrich holds the same view that “the principles that rights, liberties and freedom embody are dependent upon the community that recognises them rather than on the individuals to whom they apply”. This is plausible contention given that societies such as the ancient Greece and Rome existed without the practice of rights. The important fact to note is that while these societies existed they proved to be the most superior of their time. This brings to bear two issues:

- 1) That a society does not come to harm simply because it lacks the convention of the practice of rights.
- 2) That there could be a possibility where there are no rights readily fundamental to man. This is because the theory of individual fundamental rights even from the West where it originated is a contemporary one. More so, it is a product of the atomistic

individualism which inspired the liberal state in post renaissance Europe.

Also, not all societies that subscribe to individual rights agree that it limits public authority. This is based on the contention that if public authority is not limited does not imply that it will become destructive of individual rights. There are two morals embedded in this position.

- 1) That the respect for other values imposes some restraint on public authority without formal constitutional implications. The two values couched in this, are the appeals of morality and public interest.
- 2) The implication is that societies differ both in their concept of individual rights and attachment to values.

On the other hand, is the conception of individual rights which argues for the strengthening of public authority. The U.S and the Soviet Union offer such contrasting examples. This is in the sense that the American political theory is 'concerned primarily with rendering a government administration powerless in itself'. A powerless government administration is irrelevant to the Soviet where the statesmen strive to 'maintain an effective state organisation that can unite a people who have never seen themselves as a nation'. The implication of this is that the Soviet conception of rights seeks the cooperation of public authority while the American conception rejects public authority.

It seems from the foregoing that all the Western democratic nations have on some occasions lifted the constitutional limitations on public authority in relation to emergency powers to serve the general welfare of the nation. This is always the case in war situations and in situations of economic crisis. The implication of this obviously is that there appears to be a little difference between limitation of public authority and the upholding of individual rights when it is necessary.

SELF ASSESSMENT EXERCISE 5

Does the practice of rights in the real world confirm or contradict the conceptions in the conceptual analysis.

4.0 CONCLUSION

This unit examined the justification that individual rights limit public authority as well as the practice of rights in the real world so as to confirm or contradict the resolve of whether individual rights are superior to public authority.

5.0 SUMMARY

This unit analysed rights and public authority by trying to understand the limitations on individual rights, limitations on public authority, why limit public authority, the conflict of rights situation as well as the practice of rights in the real world

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by public authority?
2. Why should public authority be limited?
3. Explain your understanding of the conflict of Rights Situation.

7.0 REFERENCES/FURTHER READING

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UNIT 5 GOVERNMENT RESPONSIBILITIES

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Understanding What Government/Governance Constitutes.
 - 3.2 Assessment of Government Performance-Provision of Health Services.
 - 3.3 Basic Education
 - 3.4 Infrastructure
 - 3.5 Security
 - 3.6 Corruption
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit explores what governance is and what the responsibilities of government to the citizens are.

2.0 OBJECTIVES

At the end of this unit, it is expected that the student should be able to:

- state what constitutes governance
- list the responsibilities of government to the citizens
- state the factors that determine the shortfall in government fulfilling its responsibilities
- discuss the roles of institutions in the process of governance

3.0 MAIN CONTENT

3.1 Understanding What Government/Governance Constitutes

In theorising on where a government stands in relation to the governed/citizens political philosophers concluded that a government is a summation of the will of the people, an entity to which all submit to have their affairs managed on behalf of all. To this end, citizens have a duty to the government and the government in turn has a duty to the citizens. For these very reason, governance in specific terms, has been

defined as: “(the) system of values, policies and institutions by which society manages economic, political and social affairs through interactions within and among the state, civil society and private sector. It is the way a society organises itself to make and implement decisions. It comprises the mechanisms and processes for citizens and groups to articulate their interests, mediate their differences and exercise their legal rights and obligations. It is the rules, institutions and practices that set limits and provide incentives for individuals, organisations and firms. Governance, including its societal, political and economic dimensions, operates at every level of human enterprise, be it the household, village, municipality, nation, region or globe (UNDP, 2004).”

This definition definitely provides not only the comprehensive social and political aspects of governance but the technical overview of specific indicators of governance, their potential uses and limitations.

In line with the above, the purpose of government is emphasised in the social and political aspects of governance. The political aspect or responsibility is “characterised by the continuing responsiveness of public policy to the freely expressed will of the people or the preferences of its citizens whereby all individuals are to be treated as (political) equals” (Jorgen Elklit, 1994: 89; Dalh, 1971:1).

The criterion of the political equality among citizens (even when it is not achieved globally to a satisfactory degree) presupposes that the government of the Nigerian state in controlling the state resources would ensure that the citizens are equal in receiving benefits/resources of the state. In other words, based on the established fact that the elites have access to power and influence over government than the poor citizens “popular control and political equality” (Beetham, 1994:28) implies that the leaders are elected regularly and all the citizens have a fair knowledge about the goings on of the activities of the state.

Linked to political equality, are the economic responsibilities of a state or government which are: sound macro-economic management, providing an appropriate institutional and legislative framework for the market economy, and strengthening human and physical infrastructure.

This case is strong in the sense that “no country can make economic progress without reasonably stable macro-economic conditions. Fiscal, monetary, and exchange rate policies must be used to achieve high level savings and investments. Accordingly, given that the private sector is crucial for stimulating growth and creating employment, the public sector needs to foster an enabling environment for private enterprise and to reduce poverty(which a recent study of the National Bureau of

Statistics has estimated that about 70million Nigerians are poor i.e two-thirds or half of the country's citizens live in poverty as a result of an endemic corruption) through the efficient provision of social services for human resource development, the installation of basic infrastructure in both rural and urban areas, and protection of the physical environment.

In other words, the above responsibilities of government are emphasised in the responsiveness (to the needs of the people) which border on the provision of basic social services like primary health, portable drinking water, education especially primary education, provision of social infrastructure like housing, schools, construction of roads, ports, telecommunications, electricity, and railway. The government is also expected to ensure the welfare of the citizens through job creation, provision of security, and corruption-combating.

To be able to provide quality tax services to tax payers there should be accountability in government about tax revenue expenditure. Citizens expect to enjoy a lot of benefits or services and allowances because of revenue generated from their duty in paying taxes, royalties and other. This explains why broad components which include transparency in government, access to information and the accountability of both public and private sectors to the public through mechanisms such as a free press and freedom of expression and efficiency and effectiveness in relation to public sector revenue and expenditure policies, in public administration in relation to public sector revenue and expenditure policies embedded in the rule of law should feature strongly in the institutions.

However, irrespective of the emphasis on the social and political aspects of governance, current development goals prioritise of particular interest democracy and human rights, eradication of poverty and progress towards gender equality.

Expectedly, given the existence of conflicting interests, for government to respond to all the interests of every group in the society, a responsive state requires the responsiveness of elected officials to the needs and concerns of society. In effect, there must be access to legislative committees and local constituencies which must have channels of communications to different ministries. There should also be regular means by which elected representatives will consult their constituencies so as to bring government to the grassroots. In effect, if there is participation in policy making, strong freedom and competition, then government would be said to be more responsive.

Most importantly, governance or good governance is essentially demand-driven: other things being equal, the governed will get the

quality of governance that they demand. Governance will be democratic, responsive to the needs and interests of the governed, honest, transparent and accountable if, and only if, citizens from all significant social groups demand that it be so.

SELF ASSESSMENT EXERCISE 1

Explain your understanding of what governance entails?

3.2 Assessment of Government Performance-Provision of Health Services

An indicator is summary statistics that indicates differences between and or change over time in comparison to norm and standard. The analyses of governance indicators enable citizens and stakeholders to monitor the extent to which governance is efficient and effective in achieving its objectives. It is vital to assess if the government has met the challenge and provided or been successful about the provision of social services, their financing and delivery and the many synergies among them.

The analysis of governance indicators would cover the inputs and outcomes/impacts of the proportion of government expenditure spent on health and education as a percentage of GDP, and gross national income in combination with progress in health and education indicators on Human Development Indicators (HDI). Employment is also inclusive because most of the poor are not in waged employment. Or better still the ratio of the total impact of all these on women such as equal opportunity or affirmative action in education and employment etc.

In the hierarchy of results, inputs are those things that contribute to the achievement of an end but do not, of themselves, achieve it. For example, is the assessment of the inputs towards the achievement of basic education to ascertain if the necessary outcomes were sufficient or not. Output or process or impact indicators capture or measure the extent to which the end is actually achieved. For instance, does the ratio of outcome indicators reveal the (in) effectiveness of governance processes such as equal opportunity or affirmative guidelines in education, employment, health services etc.

a. Provision of Health Services

Health has been defined as a state of complete physical and mental well being and not merely the absence of disease or infirmity. In effect, the government has the social objective to provide adequate medical and health facilities for all persons as specifically stated in section 17(3d) of the 1999 Constitution of the Federal Republic of Nigeria. However, access to good health remains a mirage for many Nigerians for reasons.

First, the state of the medical and health facilities are far from adequate owing to the degeneration or poor handling of the health sector (prior the refurbishing of some teaching hospitals by the Obasanjo administration). The resultant effect was the massive shortage of health personnel/ professionals to industrialised countries that offer better economic opportunities.

Second, where the services are available it is either located too far away or the health services are not affordable. A situation that has led to the poor health seeking behaviour of the average Nigerian who resorts to self-medication and patronage of quacks or resulted in the traveling abroad of the majority who live in affluence for routine medical checks.

The implication of the lack of both basic and sophisticated equipment as well as the poor state of the health facilities above is explained in the Nigeria health indices which are among the worst in the world despite her endowments. For example, in the 2008 state of the world's children report by UNICEF, Nigeria is pitifully ranked among the 12 countries with the highest under-five mortality rate and a maternal mortality rate of 800-1500 per 100,000 births. In fact, to date the impact of access to clean water and poor sanitation is yet to be felt in most towns in Nigeria let alone the villages/rural areas. This has grave impact on the health of children who are already affected by poor nutrition and are vulnerable to disease and hunger. With these gory statistics, one really wonders whether the government realises that only those who are alive can enjoy the services provided by government.

Expectedly, to attain the constitutional objectives there have been efforts to address the shortfall. First, is the passage of the comprehensive legislative frame work which culminated into the passage of the National Health Bill by the Senate that would guarantee the provisions of the health mandate of the government which is yet to be presented to the president for assent. Accordingly, there is the National Health Insurance Scheme, a laudable effort that is, however, bedeviled by numerous constraints especially funds. For instance, the highest budget for health in Nigeria is about seven per cent at the federal level and three per cent at the state level. This is in spite of Nigeria being a signatory to an international declaration that nations should allocate at 15% of their total budget to health. This is at variance with Malaysia, for example, which allocates eight per cent of her total budget to their health insurance scheme and has been able to cover 40 million lives within three years. It is apparent from this analysis that the optimum premium placed on the health and life of Nigerians is low.

SELF ASSESSMENT EXERCISE 2

Explain your assessment of the provision of health services.

3.3 Assessment of Government Performance-Provision of Basic Education

Intervention in education is obviously the key to the long-term eradication of poverty. However, it is regretful that when governments and stakeholders globally are perfecting strategies towards attaining the Millennium Development Goals on education, enrolment into primary and secondary schools in the country is nothing to write home about. This is evidenced in a recent report submitted to the United Nations Committee on the Elimination of Discrimination Against Women by the federal government which stated that “contrary to the data from previous years, primary school education enrolment between 2004 and 2006 among female children showed a downward trend from 80 to 60.4% (a decrease of 19.6 per cent) of the total number of girls that are within the age of enrolment”. The trend, the report further reveals, was similar to that of boys which dropped from 80 to 64 per cent (a decrease of 16 per cent) within the same period. The same was experienced at the secondary school level in 2004 as enrolment dropped from 83.4 to 46 per cent among female students. The primary school enrolment figures according to the Nigerian Labour Congress shows that the primary school enrolment in the country was less than 50 per cent out of which the North recorded less than the national average. Accordingly, according to UNICEF, as of May 2008 approximately 10 million school age children (primary and secondary) were out of school. Of these, 4.7 million are of primary school age, while 5.3 million are of secondary school age and 62 per cent of children out of school are girls. In the Northern states, 34 per cent girls attend primary school. This uninspiring statistics is not only indicative of governments’ lack of preparedness to meet its responsibilities as regards the provision of basic education but a lag in joining the rest of the world in ensuring that by 2015, “children everywhere, boys and girls alike, will be able to complete a full course of primary school schooling”. This performance level is embarrassing to a nation that launched the Universal Basic Education (UBE) programme almost a decade ago, with the expectation to provide free and compulsory education for every child aged 6-15 years.

The obvious reasons for the non-delivery so far on the UBE programme cannot be divorced from the impeding effects of corrupt officials as evidenced in not only the Senate Committee on Education’s discovery of diversion of funds by state government officials between 2005 and 2006 given that only 11 per cent out of the N30 billion appropriated for the UBE programme was accessed by the 36 states and the Federal

Capital Territory but also in the 2007 ICPC discovery of a N3.32 billion massive fraud(The Punch, Friday, September 19, 2008:14). This brings to bear the need to not only re-appraise the two per cent vote from the Consolidate Revenue Fund annually allocated to the programme but to prosecute the corrupt officials by the anti-graft agencies.

SELF ASSESSMENT EXERCISE 3

Explain your assessment of the provision of basic education

3.4 Assessment of Government Performance- Infrastructure

Several studies has shown that the level of infrastructural adequacy determines a country's success or failure in diversifying production, expanding trade, coping with population growth and poverty reduction. But, it is ironical that the spectacular rapid economic growth Nigeria is experiencing as one of the fastest growing economies in Africa with an annual real GDP growth at an average of 6.8 per cent over the past 5 years and a Gross Domestic Product growth rate of 9 per cent in 2008, there has not been matched by similar progress in infrastructural development across the country. The asymmetries in economic and infrastructural development snags are most acute in several sectors of Nigeria's infrastructure, including, roads, ports, telecommunications, railway as well as the negative impact of poor power supply. For instance, the installed capacity of about 7,000 megawatts i.e. about an estimated 3,000MW electricity generation capacity has created a huge demand for electricity by a population of about 140million. To reverse this trend, the Director of Africa Credit Research, Renaissance Capital, Mr John Bates argues that "Nigeria must spend 20 per cent of its annual Gross Domestic Product (GDP) far greater than the current leading infrastructure spender, China, at 12 per cent on infrastructure in order to achieve its goal of becoming a top- 20 economy (by GDP) by the year 2020.

However, since infrastructure is so vital that it cannot be left to the government or public sector alone then there is a need for government to provide tax breaks for investors in the private sector who were venturing into infrastructural development. To foster the growth of the partnership, there is a need for the government to provide a transparent, accountable and level playing environment for the private sector to participate in infrastructural development. This is because in all cases of infrastructure procurement, value for money and cost and benefits to society must be uppermost considerations. Essentially, tackling the gap in infrastructure, whether in terms of feeder roads so as to facilitate agrarian development or boost in power supply for positive impact on the lives of the people or developing interstate infrastructure such as ports, to be efficient as well

as accessible is very important given that it will improve the competitiveness of business environment among others and not necessarily increase the cost of businesses.

Indeed, with the right kind of infrastructure, growth will be accelerated. In other words, infrastructure is the key to other issues as macro economic stability through reforms which deal with issues of inflation, real exchange rate, good fiscal and monetary policies and budgetary imbalances thereby establishing the foundation for economic growth.

Accordingly, if the precarious or dismal revelation about the youths by the Minister of Youth and Social Development, Akinlabi Olasunkanmi, that “according to the 2006 census figure, 64 million (is that 1.6 million representing 10 per cent of the 16 million employed are unemployed) are unemployed out of the 80 million youths in the country” is anything to go by, then establishing the infrastructural foundation will create opportunities which include job creation and income generation. This is paramount because if 6 out of every 8 youth in the country are either unemployed or under-employed then Nigeria may unwittingly be sentencing itself to a future of anarchy.

Infrastructure also aids in making projections for future planning. This is especially so as it is obvious that the Office of Statistics in Nigeria has no idea of the infrastructure that needs to be expanded as the population in the nation’s capital city grows let alone the entire population. This is not the case in developed countries. For instance, the US government recently looked at its population growth for the next few years and to checkmate any eventuality it made budget projections of over a billion dollars on the expansion for the infrastructure that will be needed.

SELF ASSESSMENT EXERCISE 4

Explain your assessment of the provision of infrastructure

3.5 Assessment of Government Performance - Physical Security

One of the obligatory responsibilities of a government to the citizens on the one hand, is that of protecting the weak from the powerful through the provision of security. This can be achieved through the uniformed institutions and organisations such as the police and the military/armed forces, as well as the non-uniformed actors that play an important oversight role with regard to political, legislative and budgetary purposes. The expectation is that the disposition of government in fulfilling this responsibility and the obligation to the citizens should be premised on fairness and equity in the administration of justice. The

implication of this stoic stance on the rule of law as the hallmark of any leadership is to ensure that there are no double standards in the administration of justice to the citizenry.

For many Nigerians, brutality in the hands of soldiers, police and other security agencies has become the norm. This is because the Nigeria Police Force tends to terrorise citizens while in civilised countries, hardly do uniformed people terrorize the citizens; rather their powers are displayed against criminals. In effect, the civil populace in those societies looks up to their security agents for defence and protection. But the reverse is the case in Nigeria, as citizens tremble at their sight of security agents who should protect them. This is ironical because a uniform is supposed to be not only a symbol of pride but to serve as a reminder of the oath the wearer carries and the responsibility that goes with it. In the final analysis, the security personnel should be given the proper orientation on what value to put on the uniforms they are wearing so that the raw display of naked power reminiscent of the colonial *modus operandi* mentality of protecting those in authority against the populace is checked.

Sequel to the above point, in most cases, there appears to be a disconnect between government and citizens even with those in the Diaspora or in foreign lands who have to endure almost on daily basis, cases of assault, illegal arrests, wrongful accusations and detention. There are varied examples such as the most recent one experienced in war-recovering Liberia where reports from peacemakers and ordinary Nigerians tell of hostility from the citizens of the host country. The claim as always is that there is no way government can come to the citizen's aid because there are no means to identify them given the fact that most of them left the Nigerian shores due to poverty or unemployment.

It is pertinent at this point, to examine two French words referred to as: SURETE, which can be translated to mean 'safety', or the capacity to prevent crime or activities that will disturb public peace, and SECURITE which means 'security', or the technical and operational capacity to ensure that when prevention fails, coercive means exist to return society to status quo ante provide good reason to argue for safety and security on the indispensable need to change the way security agents are perceived by the African politicians and by the people they govern. This is in the sense that, there is a need for a paradigm shift from the conventional discussions and debates surrounding 'nationality security' as opposed to 'people-centred safety and security'. The argument, in order words, is that national security or 'national safety' goes beyond the ability of a state to protect its external values from external threats. Rather, the advocacy in contemporary times is for a

return to the pre-World War definition that a state is secure to the extent to which the population is free from fear or want. This is in line with President Harry Truman of United States of America position that “National security does not consist only of an army, a navy, and an air force... it depends on a sound economy... on civil liberties and human freedoms”(Truman,1947:97). It is therefore necessary in the Nigerian and indeed African context to “rethink threats in terms of challenges posed by political, economic and social problems. These challenges are manifested, for example, in terms of purely internal erosion of legitimacy or by contrast, in external manipulation of social divisions or collective politico-social divisions or economic frustrations (McLaurin, 1988:263).

In effect, in Nigeria, there is need to maintain a focus on what should be considered as priority for Security sector Reforms, namely people’s safety and ‘security against what/whom?’ These questions invite simple answers from the grass roots level of society concerning freedom from want and freedom from fear. Generally speaking, the more common threats to security in Africa are related more to fear of urban crimes, deadly conflicts and a lack of basic necessities of life. Thus, Security Sector Reforms can only have a sustainable impact if they are carried out in a way that maximises people’s freedom from fear and freedom from want. In effect, an accumulation of personal safety leads to community safety and, when communities are safe, the political leadership is in peace with its people. Nigerians (in rural and urban)are particularly concerned with their safety from crimes and conflicts especially given that criminals and insurgents have stretched the capacity of the law enforcement agencies to their limits so much so that it has resulted in the armed forces being used to support the police and to stop deadly communal conflicts.

SELF ASSESSMENT EXERCISE 5

Explain your assessment of the provision of security.

3.6 Assessment of Government Performance – Combating Corruption

A recent survey says two-thirds of the country’s citizens live in poverty as a result of an endemic corruption so much so that although Nigeria is the sixth largest major producer of oil in the world, ironically it is now among the 20 poorest countries in the universe, oil revenues amount to less than \$100 per capita per year and provide little benefit to the majority of the country’s 140 million citizens (The Punch, Friday, September 19, 2008:14).

In reality, for decades irresponsible leadership has robbed Nigeria of its potential. To this end, there has been the demand that the federal and state governments should account for the revenue generated from taxes and oil that should have been utilised for the purpose of development which studies have revealed end up in private pockets. For instance, government is yet to render an account of the N10 trillion generated from PPT, companies income tax CIT,VAT,PIT, and education tax by the FIRS in the last 12 years, out of which N1.28 trillion was collected in 2007 alone(FIRS Data File as at April 28,2008).

One certain fact is that tax payers are willing to pay taxes if the funds are judiciously applied for development. The evasion and under-declaration of taxes by Nigerians border on the fact that most of the time the monies end up in private pockets. Thus, it is the responsibility of government not only to render account for the tax revenues shared but the collective responsibility of the three tiers of government to inform the public of the utilisation of tax monies collected and the voluntary compliance levels of tax payers. To checkmate this menace, it is hoped that the Federal Inland Revenue Service (FIRS) new tax payers database enumeration project designed to facilitate and fast track the validation of tax payers and issuance of a Tax payer Identification number (TIN) will easily give away details about ones levels of income in line with what a citizen declares for tax purposes to curb tax evasion by all eligible adults. This will serve as a deterrent to those that administer for their pockets rather than for the purpose of the people. In effect, cash flows should not be the only thing required of governments but balance sheets of where public finance/funds come from and where it ends up must be closely monitored as well.

In sum, it is glaringly when a government is up to its task or has abdicated (incapable of carrying out its duties) its responsibilities/ duties to its people. On this score, it is obvious that there is a dearth in the fulfillment of these responsibilities in Nigeria.

SELF ASSESSMENT EXERCISE 6

Explain your assessment of corruption.

4.0 CONCLUSION

This unit examined the role of government and its responsibilities to the citizens.

5.0 SUMMARY

The unit explained what constitutes governance as well the evaluation of whether government has met the challenge about the provision of social services and the factors that determine their inability to deliver.

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you think constitute governance?
2. List and explain three indicators of governance areas.
3. Do you think government fulfilled or was incapable of carrying out its responsibilities to the citizens?

7.0 REFERENCE/FURTHER READING

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UNIT 6 INSTITUTIONS OF GOVERNANCE AND RESPONSIBILITIES

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 (a) The Legislature (b) The Judiciary
 - 3.2 (a) The Judiciary (b) The Civil Society
 - 3.3 (a) The Security Apparatus (b) Political Parties
 - 3.4 Analysis of Shortfall in Governance Responsibilities
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

It is clear from the outcome indicators analysed above that government has not lived up to its responsibilities. On which score, Nigeria can be described as a failed state based on the United Nations (UN) argument that when a constituted government in a state no longer performs the core functions required of it to its people, it has failed. Sequel to the above, it becomes pertinent to analyse core institutions of the state: the legislature, the executive, the judiciary, the bureaucracy (civil service) and the armed forces citizen-state relationship. The essence is to ascertain if there is obvious erosion or loss of confidence on the part of citizens.

2.0 OBJECTIVES

It is hoped that at the end of this unit, you should be able to:

- list the core institutions of government.
- analyse if the shortfall in government responsibilities means Nigeria is a failed state.

3.0 MAIN CONTENT

3.1 Institutions of Governance

The institutions of governance are: the legislature, the executive, the judiciary, the bureaucracy (civil service) and the armed forces.

- (a) **The Legislature:** This institution (the Senate and House of Representatives) which is saddled with law making is the core determinant of the character of the state. However, this institution has created credibility problems for the Nigerian state because most members of national assembly are people who participated in varying degrees with military regimes (especially the Babangida and Abacha dictatorships). Expectedly, the element of parochialism is glaringly in the ineptitude and slow pace of law-making being displayed as the hallmarks at the national and state legislatures leading to impeachment of leadership of many of them. This scenario obviously will make the citizens skeptical of their making credible laws.
- (b) **The Executive**
The executive, though now under civil government, is still imbued with the tarnished image of military rule. Hence, the obvious lack of preparedness to tackle pressing national issues like improvement in the epileptic power supply, building of refineries to serve the needs of the citizens, improving the state of schools, addressing police intimidation etc. Thus, despite the past administration's popular measures in the recovery of looted wealth, the establishment of tribunals, to investigate human rights abuses, the removal of potential coup makers from the armed forces, and policy pronouncements on UBE and poverty alleviation measures, fallouts from the administrations disregard for due process, corruption and high-handedness etc. have cast blight on the moral reputation of the executive. The past controversies arising from non-performance bugs down any expectation that Nigerians may have for the present executive's ability to grapple with the delivery of public goods especially as there appears to be an absence of a concrete plan and obvious lack of preparedness by president Umaru Yar'Adua's administration. With this visionless remedy for Nigeria's ailing situation, there will definitely be least zest for loyalty on the part of citizens. This is because Nigeria is a country that has a leadership style, where there is not only absence of discipline and leadership focus but one where despite the rising oil prices the living standards are depreciating with no meaningful action that will affect the lives of ordinary citizenry in the pipeline.

SELF ASSESSMENT EXERCISE 3.1(A)(B)

Evaluate the legislative and executive institutions.

3.2 (a) The Judiciary

It is the last arbiter for the resolution of disputes in the inevitable confrontation between the state and citizens, between different tiers of government and between all manners of actors. However, given the past decades under the military, the character of the judges became distorted given that they cannot be insulated from the character of those who appointed them. The dependence of the judiciary obviously resulted in cases of perverted justice and assaults as evidenced in the refusal to obey judicial orders; removal and demotion or non-promotion of judicial officers and the exorbitant cost of justice which is beyond the average Nigerian both in time and money.

With the democratic dispensation in 1999, it is expected that confidence will be restored in the judiciary. However, the timid response to and complicity in so many issues such as the political killings of chief Bola Ige, Alfred Rewane, Harry Dokubo and , Ogoni activists, Ken Saro-Wiwa and his eight compatriot, Dele Giwa etc. shows the tainted character of the judiciary. In effect, for respect, in practice, of the rule of law and due process to be achieved the judiciary would weed out corrupt and inept judges and magistrates. Secondly, there should be practical adherence to the provisions of the 1999 Constitution that seeks to guarantee the independence of the judiciary in terms of appointments, dismissals and funding. Thirdly, there should be decongestion of the courts and litigation within the reach of the average Nigerian.

(b) The Civil Society

The function of the civil service is delivery of government service given that it is the link between the executive and society in the implementation of public policies and programmes. But as the only institution which is permanent between democratic governance and military dictatorship the civil service unlike in the colonial order when it was committed to servicing law and order and extractive operations/impacting meaningfully on the public policy process has become content with performing in a largely unprofessional manner mere clerical roles. This explains the non-performance of the various government agencies. Hence, the need to organise and decentralise it especially as it has been adjudged the harbinger of corruption given its over bloated nature. To however, reorient the bureaucracy, the following are important: the institution of merit should be promoted and entrenched; there should be regular training as well as adequate reward package and punishment for defaulters to checkmate corruption. But most importantly, unless as stakeholders, work ethics embedded in the service delivery scheme popularly known as SERVICOM inaugurated by the Federal Government on June 9, 2005 to revive the degenerate

state of service delivery in the nation's public service are embraced, government through the civil service will always fail in the provision of the responsibilities. The aim of the scheme is to improve service delivery to people through hard work, accountability and diligence. SERVICOM has as its core values, complete dedication of workers to the provision of basic services for Nigerians in a timely, fair, honest and transparent manner.

SELF ASSESSMENT EXERCISE 2

What is your understanding of these institutions?

3.3 (a) The Security Apparatus

This coercive apparatus responsible for public security is of critical importance to the executive arm of the government. The components of this apparatus are the police and the various security outfits, notably the State Security Services (SSS) and its variants. For many Nigerians, these apparati that should protect them are still largely colonial and still believe they are above every other citizen and can terrorise everyone. The police and other security outfits further imbibed the dealings in brutality of dictators especially during the spate of military incursion into governance as evidenced in the brutalisation of citizens, parcel bombing of News watch journalist, Dele Giwa, the assassination of elder statesmen like Alfred Rewane, Chief Bola Ige, Harry Dokubo, Mrs Kudirat Abiola and a host of others. In fact, the whole concept of protecting those in authority against the populace still looms in the modus operandi of the security forces and their personnel so much so that the value these agents put on the uniform that is supposed to be a symbol of pride and reminder of the oath the wearer carries and the responsibility that goes with it, is that of brutality.

To a wide spectrum of Nigerians, the challenge for re-orientation borders on reform. This is in relation to bringing other security actors apart from the police, army such as the judiciary saddled with adjudication, the legislature and the civil organizations charged with oversight responsibilities to be involved in the reform strategies in order to re-educate, re-orient and re-professionalise the armed security and para-military forces to serve the ends of the citizens.

Also, systemic reforms' considerable progress can be achieved through the important and often overlooked actor which is the civil society, which commonly includes non-governmental organisations, academic institutions, policy 'think-tanks'. These organisations contribute to the processes of developing enabling policies to evolve with the support of the civilian population- support that incrementally increases public

confidence in the security forces and helps build an environment of good governance.

(b) Political Parties

Political parties in Nigeria are regarded as mere association of personalities who organise to get themselves or friends elected into offices for the sole purpose of engaging in accumulation and self-aggrandisement. In other words, the largely undemocratic manner which they are constituted creates a dearth in the organic linkage with the citizenry. This explains government's inability to truly aggregate and articulate the interests of the citizens. It is therefore advocated that all restrictions on the formation of political parties should be downplayed as a way of loosening the stranglehold of oligarchic caucuses within the existing party hierarchies.

SELF ASSESSMENT EXERCISE 3

Explain the shortfall in these institutions.

3.4 Analysis of Shortfall in Governance Responsibilities

It is clear from the outcome indicators analysis that government has not lived up to its responsibilities. On this score, Nigeria has been described by some scholars as a failed state based on the United Nations' (UN) position that when a constituted government in a state no longer performs the core functions required of it to its people, it has failed.

The shortfall on government responsibilities can be blamed on political leadership—from the spate of military usurpation through retired military in civilian garb to stooges in leadership or steering the ship of governance who are still battling with legitimacy. Thus, unlike other advanced countries that have more concrete demands on themselves and leaders Nigeria is yet to transcend the “deadly nation-wrecking prejudices, biases, and cleavages based on tribe, or ethnicity, region or religion at the expense of who will serve the country and its peoples better based on certain discernible criteria. (Obizor, 1994: x). In essence, a leader or administration must have a must do where the citizens are concerned as obtained in developed countries like Europe or US where every citizen is aware of the specific projects of a prospective government even before ascending the mantle of leadership. This will serve as a scorecard at the end of the administration about how problems are to be confronted. This is a far cry from what obtains in Nigeria where the current administration appears unprepared so much so that since May 29, 2008 to date there seems to be no focus especially in relation to power. Indeed, for government to be able to deliver,

Nigerians as individuals and as groups must resolve what their expectations from leadership are. To this end, selfish and myopic interests of ambitious individuals and groups which have affected the national political psyche at the expense of national unity and peaceful co-existence should be expunged. This becomes apt given that patriotism and loyalty which are the responsibilities of the citizenry to government can only be engendered by a strong and confident leader that fulfils its responsibility to the citizenry.

SELF ASSESSMENT EXERCISE 4

Why do you think these institutions experience shortfalls?

4.0 CONCLUSION

This unit examined the role and responsibilities of the various institutions in governance.

5.0 SUMMARY

The unit explained the core institutions and how the loss of confidence in the political institutions imprints on the character of the state.

6.0 TUTOR-MARKED ASSIGNMENT

1. List and explain the core institutions.
2. Explain the citizen's loss of confidence in the core political institutions of the state.

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UNIT 7 PATRIOTISM/ LOYALTY

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Understanding Patriotism/Loyalty
 - 3.2 Symbols and Stereotypes of Patriotism/Loyalty
 - 3.3 Why the Dearth in Patriotism/Loyalty?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

This unit examines patriotism/loyalty as a responsibility of the citizenry to government as well as the conflict of loyalties between individuals to the Nigerian state and to his/her community and/or sub-community.

2.0 OBJECTIVES

It is hoped that at the end of this unit, you should be able to:

- define patriotism/loyalty
- identify and explain features that engender nationalism/integration
- discuss the issues and challenges that confront patriotism/ loyalty.

3.0 MAIN CONTENT

3.1 Understanding Patriotism/ Loyalty

Broadly, patriotism means love of one's own country and willingness to defend it. But the most informed opinion within Nigeria on patriotism is that by the Report of Nigeria's Constitutional Drafting Committee (CDC), which met between 1975 and 1976, and posited that "the state shall foster a feeling of belonging and of involvement among the various sections of the country to the end that loyalty to the nation shall override sectional loyalties."(CDC, 1979). The report also contended that as a general rule, every Nigerian owes or is expected to owe some loyalty to his/her community and/or sub-community but with the paradox that loyalty to one's community ought not to be allowed to inhibit or detract from national loyalty, that is to say, loyalty to the Nigerian state.

Loyalty as the quality of being true or faithful or having a strong feeling in ones support of his/her country that is dependent on the claims to

nationhood is however, challenged by ethnic nationalism which clearly is the struggle between individuals seeking to monopolise state power on behalf of particular sub-national communities. This divided loyalty to two different and possibly conflicting causes, people which invariably constitute conflicting “loyalties”, border on integration.

Parsons and Shils define integration as the process by which relations of a system to the environment are mediated in such a way that its distinctive internal properties and boundaries are maintained in the face of variability in the external situation. According to the structural approach, a society is said to be integrated to the extent to which the parts interact and complement one another. If a unit is capable of being detached without feeling the whole, then the system is essentially, ‘un-integrated’. But if the system can collapse or become seriously destabilised when some parts are detached, then there is integration. Those who ignore this essential element in nation-building reap political instability. This is because according to Ake the “problem of political integration is a shorthand for two related problems: “How to elicit from subjects deference and devotion to the claims of the state and how to increase normative consensus governing political behaviour among members of the political system”. To therefore gauge the degree of political integration sequel to the above problems Ake further examined seven various indicators of which Nigeria experienced a shortfall. These are:

The Legitimacy Score: The level of integration of a historical political system is linked to the extent to which the citizens of the state identify with the state as an embodiment of their interest and therefore concede that it deserves their loyalty and authority to exercise certain powers over them.

Extra –Constitutional Behaviour Yardstick: The yardstick here is examining the ‘frequency distribution of the preferences of political actor between constitutional and extra- constitutional actions. The extra-constitutional measures include arbitrary arrest of political opponents, the use of terrorism to overthrow duly elected governments which reflect the lack of basic consensus about the ground rules of political competition.

Political Violence Score: To what extent is violence resorted to in achieving political goals? The frequent resort to this indicator reveals that the development of a normative culture is ambivalent or in the embryotic stage.

The Secessionist Demand Score: Secessionism means an absence or withdrawal of commitment for the existing political system by members

of the secessionist group and the numerical strength can be regarded as an indicator of the degree to which the political system is integrated.

Alignment Pattern Score: This is to the extent to which the major groups (political parties) competing for control of the government apparatus draw their support from the various geographical areas and from the ethnic, religious, social and economic group within the society.

Bureaucratic Ethos Score: The issue here is if the political system is highly integrated there will be a tendency for its members to give their loyalty to the state and the constitutionality elected holders of high offices inspite of their personal feelings about the holders of these offices.

Authority Score: This links authority with the legitimate use of coercion to induce compliance given that the authority of the state is a function of its legitimacy score and its effectiveness for carrying out its constitutionally prescribed duties. The high incidence of breakdown of law and order in parts of the political system is indicative of a low level of integration. This feature which explains the spate of military incursion in politics paradoxically has been responsible for keeping Nigeria one.

Accordingly too, Isiagwu (Atanda, 1985) sees political integration as series of challenges of political development and explained as:

1. The challenge of authority or state-building: This borders on the problem of the political centre 'penetrating' or controlling' so as to make its presence felt as well as maximise its authority.
2. The challenge of the united (nation-building): This explains the difficulty of creating unity among the heterogeneous groups in the state and in a multinational state like Nigeria that entails integrating the various groups in order to build a nation out of the state.
3. The challenge of participation: This challenge highlights the extent to which people influence decisions that affect their lives.
4. The challenge of distribution: This emphasises the ability of a system to distribute scarce but allocatable resources equitably among the various groups in a state.

The bane of the arguments on integration especially those of Ake and Elaigwu border on the arguments that political integration is crucial to the nation-building process. In effect, attaining true Nigerian nationalism is dependent on integration among the various ethnic groups in order to resolve questions which border on the effects and influence of culture on personality traits, social institutions, and collective

historical experiences among other issues. To therefore engender nationalism that centres the supreme loyalty of the overwhelming majority of Nigerians upon the Nigerian nation-state and not upon the sub-groups is dependent on the development of a Nigerian consciousness premised on the existence of high quality integration where people want to be affected by others in the same way that they are affected themselves.

In other words, the dealing with the allocation of resources and how readily people accept a given allocation system in a political system is a measure of integration. Attaining this integration in a state is by no means easy because the will of the people have to be determined. Thus, there can be no question of any claims to integration in a society where it is possible for one class/ethnic group to exploit another or others and thus cause alienation in the system. Guarding against it is essential in the sense that it not only degrades loyalty in that it encourages dangerous estrangement of the political leadership, but, above all, and more interestingly, inevitably leads to national dislocation, disorientation, and loss of confidence confronts the idea of Nigerian nation-hood and national identity. The reason for this amazing paradox lies in the Nigerian people's failure to define what it is they want from themselves or expect from the leaders as a nation. For patriotism to take root, Nigerians must resolve in their minds as individuals and groups, what the political character of Nigerian state should be one of which is acquiring a genuine nationalist political culture in which public interest transcends all sectional, sectarian or private interest by a nationalistic establishment.

SELF ASSESSMENT EXERCISE 1

Explain your understanding of what should engender patriotism/loyalty.

3.2 Symbols and Stereotypes of Patriotism/Loyalty

According to Prof. Hayes's the nature of nationalism in a country is dependent upon the important role which flags, national anthems, constitution and the like play in rallying mass sentiment. These mass actions largely determined by what Walter Lipman calls 'stereotypes' elicit more or less predictable responses as regards patriotism/loyalty in the citizenry distinctly.

Patriotism of a citizen is evidenced in the adherence to customs and traditions that have definite symbolic value that greatly strengthen national unity and pride. For example, customs and traditions such as surround the conduct of judicial business, the ritual of the flag is also a

custom of symbolic value should consistently be observed or hallowed as an everyday illustration of the symbols of communal unity.

Patriotism is also symbolised in the observance of peculiar occasions/holidays which symbolise national unity transcending all groups/sectors. All modern nations have peculiar holidays of their own, like the Independence Day in Nigeria-October 1 and the nascent one -Democracy day-May 29 in commemoration of the return to democratic rule after a long spate of military incursion in government.

Expectedly, the shared experiences in these symbols build up a common store of memories which find poetic expression in symbolic paintings and in holidays which emphasise the distinctive contributions. However, to look upon traditions and customs as God-given or natural, as was done by Burke as many of his contemporaries is no longer possible because of the realisation that even the most hoary tradition has been created by men, that all such traditions can be manipulated given that propaganda permeates our existence on every side. Also, what is readily apparent is the exposure to formidable cleavages like cultural and economic divisions which divide modern nations.

Constitutions as well as its provisions become so many symbols which also constitute a political force to patriotism. This is because a constitution is neither merely “a set of rules and laws regulating society and government”, nor a mere social contract or even a grundnorm but an “expression of the general will of a nation, the reflection of its history, fears, concerns, aspirations, visions and indeed, the soul of the nation”(IDEA,2000). The symbolic function of the constitution- the “will of the nation” as a political force finds expression in the words of the preamble which gives the sense for the need of continuity of a nation. However, there is a great contrast between the use of words in the preamble and the meaning given to it as evident in the Nigeria case. To date the content of the 1999 Constitution is controversial because of its centrist provisions, its legitimacy which is undermined due to the process that produced it, as well as the ‘non-consultation’ that preceded its promulgation into law by Abacha/Abdulsalami dictatorship. In line with these issues, the constitution which should be a symbol of national unity appears to mean nothing to Nigerians. This explains why there is advocacy that there is need to evolve a popular constitutional government within the national frame. This suggests ensuring effective participation of all in the drafting of a constitution that will take into consideration the fears and concerns of the minority as well as the concerns of the majority. If this is adhered to, the constitution, then would serve as the process by which government action is not only effectively restrained but would function also as the most effective symbol of the unifying forces operative in a community.

Of importance, is the fact that although, people are willing to go to war and accept to die as the final test of effective allegiance for a national culture in most developed countries. However, this is not so in seemingly heterogeneous societies like Nigeria. The “disenchantment” of loyalties due to cultural and economic divisions which constitutes the most formidable cleavages incidentally make the constitution not real enough to become a political force. Remedying this anomaly which limits citizenship to one of effective citizenship allegiance is dependent on constitutional democracy itself which is believed can overcome heterogeneous national cultural divisions as well as religious and other cleavages.

The point to grab is that the making of culturally united nations has been a long and arduous process wherever it has been accomplished, as in England, France, Holland, Denmark. In these countries, unification or a sense of national loyalty was accomplished in line with Burke’s argument that the need for real unity in favour of a common government is a necessary prerequisite succinctly captured in his Appeal from the New to the Old Whigs thus: the power of acting by a majority....must be grounded on two assumptions: first, that of an incorporation produced by unanimity; and second, an unanimous agreement that the act of a mere majority....shall pass with them and with others as the act of the whole.” Now this unanimity at the start of an association or a group (what Burke calls an incorporation) must, in the case of so extensive and complex a group as that which constitutes the citizenship of a modern country, be built upon a fairly long period of living together or upon an overwhelming sense of the need for association, such as existed at the start of the American Federal Union. In sum, the weight of a common tradition as a procreator of constitution in a written charter is a political power of lasting importance.

Finally, it is important to know the bearing these psychological factors have on the citizens or better still do Nigerian citizens pride themselves with these symbols? Unfortunately, the answer is not in the affirmative on account of the persistence of varied issues (that will be discussed in the next section).

SELF ASSESSMENT EXERCISE 2

What stereotypes engender patriotism?

3.3 Why the Dearth for Patriotism/Loyalty

In studying the problem of loyalty in the Nigerian situation we shall proceed to examine the issues involved. As is clear from the above, it is necessary to address the evolution and structure (as it is important that we know the background of the root causes of our problems), dynamics and controversies in patriotism.

The Evolution

Nigeria is a complex country with problems that date as far back as 1884 even before the coming of Lord Lugard in 1894. The implication of this is that as far back as 1914 Nigerians confirm that the image of the state has been in tatters and its legitimacy undermined given the intrigues and politics of fraud involved in the evolution or rather what is termed the amalgamation of Nigeria.

Literature has it that the interest of the Europeans in Africa and indeed Nigeria was and still is economic. In effect, Nigeria was created as a British sphere of interest for business. The implication is that Lugard (at that time an imperialist) came to Nigeria with British interest as a purpose evidenced in the number of dispatches by Lugard between 1898 and 1914 to London which led to the Amalgamation of 1914. Specifically, the Order-in-Council which was drawn up in November 1913 signed and came into force in January 1914 in which a number of things, which are at the root of Nigeria's problems were said. Literature has it that the British needed the railway from the North to the Coast in the interest of British business. To this end, amalgamation of the South (not of the people) became of crucial importance to British business interest. It is also documented that according to Lugard, the North and the South should be amalgamated so, when Benin was conquered in 1896, it made the creation of the Southern Nigerian protectorate possible on January 1, 1900. It should be noted Sokoto was not conquered until 1903-a conquest that made it possible for Lugard to go full blast to create the northern Nigerian protectorate. It is pertinent to note that there was no question of Nigeria at that time.

What is critical and important are the reasons Lugard gave in his dispatches. They are as follows: that the protectorate of the North is poor; hence, could not generate the resources to run it especially as it had no access to the sea while the South has resources and educated people. Therefore, because it was not the policy of the British Government to bring the tax-payers money to run the protectorate, it was in the interest of the British business and the British tax payers that there should be amalgamation. But what the British Amalgamated was the administration of the North and South, an act that subsequently became one of the causes of the problems of Nigeria and Nigerians.

When the Amalgamation took effect, the British government sealed off the South from the North. Hence, between 1914 and 1960, specifically a period of 46 years, the British allowed minimum contact between the North and South given that it was not in the British interest that the North be allowed to be polluted by the South. This explains the basis of Nigeria independence in 1960. It should be noted that the North formed a political party, the Northern leaders called it Northern (and not Nigeria) Peoples Congress(NPC) in accordance with the dictum and policies of Lugard. A strand that was repeated when Aminu Kano formed his party and called it the Northern Elements Progressive Union(NEPU) not Nigerian Progressive Union showing their sectional bent unlike Zik and Awolowo who believed more in Nigeria.

In the light of the above exposition, it would be saying the obvious that the so-called Nigeria created in 1914 was a complete fraud. Why? First, this is evidenced in the fact that Nigeria was not created in the interest of Nigeria or Nigerians but of the British. Second, the manner in which the structures were created was such that Northern would Nigeria represent England given that in British structure, England has permanent majority in the House of Commons. Western Nigeria represented Wales that can never dominate England and Eastern Nigeria was to be like Scotland that can neither dominate Britain. Thus, the actual power rested in England- the replica of what Lugard created in Nigeria, a permanent majority for the North.

Nigeria's political/structural evolution explains to a large extent the dilemma which today is beginning to dawn on Nigerians.

Other issues that further jeopardised the fragile foundation of Nigeria as well as any underlying sentiment of unanimity and cohesion come to bear in three most contentious issues linked to the dynamics and controversies of citizen- state relations disconnect. These are: the actual size of the population and its special distribution, the desirable number and size of the constituent states of federation and most equitable revenue allocation system.

Size and Population

Nigeria's greatest potential is accentuated by its size-an area of 356,700 square miles(Obizor,1994:5) and population currently estimated between 120 and 140 million given that there has been controversies over the reliable figure in the past census exercises. Expectedly, population is a power potential. However, ironically this large population presupposes large problems as regards the unity that has eluded the entity since 1966. Essentially, in a pluralist society like Nigeria, this large population constitutes problems as far as unity between the country's constituent parts are concerned particularly with

the present cycle of controversies being experienced in the ceding of Bakassi Peninsula to Cameroon.

The Issue of Revenue Allocation

The term depicts the financial relationship between the federal and the state. In other words, it involves the distribution of fiscal powers under the Federal system. The problem of revenue allocation dates back to the amalgamation of the Northern and Southern Protectorates in 1914 where each successive government tried to solve the constant conflict over the issue of the control and sharing of revenue resources so that it would be fair to all people irrespective of their places of birth or residence. To this end, the principles such as derivation, fiscal autonomy and need were principally the criteria during the colonial period. In the post independence period, allocation criteria were: continuity of existing levels of services, basic responsibility of each regional government, population, balanced development and derivation. The military era characterised by a high level of corruption, however, distorted these principles so much so that during the era, the principle of derivation suffered a set back. This culminated in the dearth development in the oil-producing areas. It is important to note that the provisions in the 1979 Constitution on revenue allocation also incorporated in Ss 162-168 of the 1999 Constitution recommends the sharing of revenue resources through distributable pool account. Section 162 provides for common pool of financial resources (federation account) to be distributed among the Federal and State Governments as well as the Local Government Councils in each state on terms prescribed by the National Assembly. Section 162 however, pacifies the oil-producing areas agitating against Federal Government owning a lion share of the mineral revenues. The allocation of 13% to the states of origin resuscitates the principle of derivation. This principle is based on population and responsibility and balanced development. However, this principle in terms of adequacy or inadequacy is still controversial based on whether the 13 or 25% which the constitutional conference agreed on oil revenue to the producing states be adequate to deal with environmental degradation. But to date, since it is the National Assembly that will deliberate on the terms and conditions for grants to be made through policies it seems an increase in percentage will be a mirage. Expectedly, for this very reason, there is bound to be pessimism with any claim to loyalty/patriotism.

Ethnicity

The problem of emphasising ethnic symbols and boundaries in the struggle for wealth and power connects with the most pressing questions regarding the citizen-state relations in Nigeria and indeed Africa. This factor is deeply embedded in conflicting ideological framework of the

Nigerian state so much so that ‘primordial’ attitudes inevitably determine loyalty to the state and citizen relations. Ethnicity, is fundamentally a political phenomenon in which ‘primordial’ sentiments are superimposed over fundamental and objective interests of citizens as a motivating force in the intensive struggle between groups for support from their better-placed kinfolk in the pursuit of the basic economic and political goods such as are the licenses, scholarships and contracts or to capture places of employment, taxation, funds for development, education, political positions which represent the most visible milestones of success and survival.

Sequel to the above, are mutually reinforcing notions of clientelism, prebendalism, patronage system, patron-client clusters which constitute aspects of a general phenomenon just as ethnicity which comes to bear in the pursuit of state office and material benefits basic social and material goods-loans, scholarships, licenses, plots of urban land, employment, promotion, ministerial appointments. Prebendalism primarily is a function of the competition for and appropriation of, the offices of the state for the benefit of individual occupants and their support groups while clientelism defines the nature of individual and group relations within the wider socio-political sphere. In sum, these phenomena have become dominant patterns of political behaviour in Nigeria in terms of the incessant pressures on the state and the consequent intensive and persistent struggle to control and exploit the “offices”.

SELF ASSESSMENT EXERCISE 3

What factors explain non-patriotism/loyalty?

4.0 CONCLUSION

The unit explained patriotism/loyalty as a responsibility of the citizenry to government and to his/her community and/or sub-community. It also addressed the stereotypes’ that elicit predictable patriotic responses in the citizenry as well as the background of the dynamics and controversies in patriotism/loyalty.

5.0 SUMMARY

The unit brought to bear the fact that the failure of the political order constituted the dearth in national consciousness which invariably promotes those elements that militate against national integration and the evolution of a true Nigerian nationalism. The challenge therefore for the political system is to address crucial political problems and crises

such as legitimacy, participation and integration that have bedeviled the Nigerian political institutions, systems and leaders.

6.0 TUTOR-MARKED ASSIGNMENT

- 1) Explain what patriotism/Loyalty constitutes
- 2) Identify and explain features that Ake posited as the yardstick for assessing nationalism/integration
- 3) Discuss the issues and challenges that confront patriotism/ loyalty.

7.0 REFERENCES/FURTHER READING

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