

# SUPREMACY OF THE CONSTITUTION

Posted on [March 17, 2016](#)[January 31, 2020](#) Written By [Olanrewaju Olamide](#) Posted in [Nigerian Constitutional Law](#) Tagged [Inakoju vs Adeleke](#), [Supremacy of the constitution](#)

## Supremacy of The Constitution

In every given human society, there is always a supreme entity whose provisions or dictates are final. This particular entity is the embodiment of sovereignty in that society. In the pre-“ colonial times, it was usually the Gods of the land (in the South) or the provisions of the Holy Qâ™uran (in the North). In contemporary Great Britain, the parliament is regarded as supreme while in Nigeria, the constitution is regarded as supreme. The purpose of this work is to discuss the implication of Supremacy of the constitution in the Nigerian situation. Firstly, the key terms will be defined, then the provisions of the constitution with regards to Supremacy will be provided along with case law to show their application. Then the implication for the Nigerian situation will be discussed.

Supremacy can be defined as “The position of having the superior or greatest power or authority”. The constitution can also be defined as “The fundamental and organic law of a nation or state that establishes the institutions and apparatus of government, defines the scope of governmental sovereign powers, and guarantees individual civil rights and civil liberties”. From the foregoing, it can be seen that constitutional supremacy is the position of the constitution having the superior or greatest power or authority.

Due to the fact that pursuant to S.2 of the Nigerian Constitution 1999 (as amended), Nigeria is a federal republic, it therefore has a written constitution. The general convention is that a written constitution is supreme, the Nigerian constitution provides for its supremacy in some of its provisions. These provisions shall be subsequently highlighted.

The first section of the [1999 constitution](#) that deals with the supremacy of the constitution is S.1(1). It provides thus: “This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal republic of Nigeria”

This section means that the provisions of the constitution are binding on all persons no matter how high or low. Even the number one citizen of the country, the President, is bound by the constitution. There are numerous case law in which the actions of the president were declared unconstitutional and of no effect whatsoever. One popular case is *AG Lagos vs AG Federation*. In this case, it was declared that the actions of the president in withholding the federal allocation to Lagos state was in contrast to S.162(5) of the [constitution](#), therefore they were unconstitutional, null and void.

Another case is that of *Inakoju vs Adeleke*. In this case, some members of the Oyo state house of assembly purported to remove the Governor of the state. However, They did not follow the full provisions of S.188 of the [Constitution](#). Due to this, the Supreme court, through a leading Judgement by Tobi JSC declared their actions unconstitutional, null and void. From the foregoing cases, it can be seen that acts which contravene the provisions of the constitution will be declared null and void because the constitution is supreme and shall have binding force on all persons and authorities throughout Nigeria.

Another provision of the constitution that borders on Supremacy of the constitution is S.1(3). It provides thus:

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

This provision is self explanatory, it means that any law that conflicts with the provision of the constitution shall be inapplicable to the extent of its inconsistency. This is also known as the blue pencil rule. The court of Appeal, in the case of *Inspector General of Police vs ANPP and Ors*, applied this provision of the constitution. It declared the provisions of the Public Order Act which provided that a permit is needed from the governor before people can assemble in public contrary to the provision of the fundamental human rights of freedom of expression and association which is contained in SS.39 & 40 of the 1999 constitution. Therefore, those provisions of the public order act were declared unconstitutional, null and void to the extent of their inconsistencies.

The preceding paragraphs have exposed us to provisions of the constitution that provide for Supremacy of the constitution. Next, will be to examine its implications in the Nigerian situation.

The implications of the supremacy of the Nigerian constitution is that the people are sovereign. S.14(2)(a) CFRN 1999 (as amended) provides that sovereignty belongs to the people from which government derives its power through the constitution. It means that every power in the country be it executive, legislative or judicial answers to the people through the provisions of the constitution as laid down by the people. Also, the supremacy of the constitution makes it the supreme law of the land against which all inconsistent enactments and conducts are null and void. It is the grand law and authority base of the country derived from the people, the power base of the country. It is the supreme law by which every other law and conduct are tested for constitutionality and upheld on the one hand and declared unconstitutional and null and void and of no effect, on the other hand.

In conclusion, there have been arguments about the truth of the provision of S.14(2)(a) of the [Constitution](#). It is contended in many quarters that this present constitution was foisted on us by the military government. It is said that inasmuch as the people did not choose their representatives to fashion out the constitution for them, therefore, it is not the people’s constitution. However, on the other side of the divide are those that contend that since the present 1999 constitution is to a large extent in *pari materia* with the 1979 constitution, it can be called the people’s constitution. This is because in the formation of the 1979 constitution, the representatives of the people sat down and fashioned it out. Whatever side of the divide one may be in, the truth remains that the present constitution has been in

use from 1999 till date. It is the most successful democratic constitution in the history of Nigeria due to the fact that it is the longest lasting constitution. Thus, it is safe to conclude that “one cannot bite the fingers that feeds him.”™

**P.S: If you are interested in getting awesome grades in your Constitutional Law exams, then you should sign up to [download my free guide to decoding exam questions](#).**