**POL 102: CITIZENS AND THE STATE**

COURSE CODE:- POL 102

COURSE TITLE: CITIZENS AND THE STATE

COURSE STATUS: Compulsory

COURSE DURATION: 1 week of 2 contact hour

INTRODUCTION:

LESSON OUTCOME: At the end of this module, you should be able to differentiate the various theories of the origin of states, using the writings of philosophers and scholars in the field of Politics

MODULE 1: STATE

**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 artificialcreation that can be related to concretely through the institutions set upin its name to define it as well as make decisions as to the organisationand 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 haste 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 them any and diverse institutions of rule and governance into a coherent *whole* and *totality* (Shaheen, 1987) that is internalized and accepted byte 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 collectively 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.

**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 ‘sup ramus’ 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 general power of law making 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 thepresident, national Assembly (senate and House ofRepresentatives) 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.

**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 God2. 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’ 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, cooperation 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. Figg is 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.

**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” (Humeas 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.

**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*i n 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 *patriapotestas* (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.

**The Matriarchal Theory**

Among the chief exponents of this theory are McLennan (*Primitive Society,* 1865), Morgan (*Studies in Ancient Society,* 1877) and Jenks (*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

**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 ofgovernment.**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’.

**THEORIES OF STATE**

**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 apolitical 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.’

**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 been forced 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 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 latter half of the 17cand 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 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’. Therefore, 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 sovereignd. 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. 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 followingcounts: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 contract3. 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.

**John Locke**

The purpose of Locke (1632 – 1704) in his *Two Treaties 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 order 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 fulfilment of his personality.

**Jean Jacque 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 everyone 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 orpersons.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 byhimself.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 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 theory4. 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 Revolution6. 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 order 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 particularism and sectional interests) More so, to Rousseau the sovereign are the people themselves gathered in solemn general assembly, without private interest, as awhile incapable of injustice to any members.

**Merits of the Social Contract Theory**

The theory has some merits such as:1. It serves as a reminder to Government of the human purposeswhich the State can serve so as to justify its existence. As Kant,the German philosopher, said: This is because ‘The legislator isunder the obligation to order his/her laws as if they were theoutcome of a social contract.’2. In line with Locke and Rousseau’s idea that civil society rests noton the consent of the ruler but of the ruled the theory institutedwhat subsequently became an important factor in thedevelopment 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 scholarsargue that the contract theory of the origin of political authority isuntenable not because there were no historical records when thecompacts must have been made but because historical evidencethrough which inference about the primitive conditions may beimagined were impossible to lay hands on.2) The theory pre-supposes individuals as agents of contracts.However, this runs contrary to the Maine research revelationswhich showed that the progress of societies has been from statusto contract. According to Maine, this conclusion was reachedbecause contract essentially is understood as not the beginningbut the end of society. Also, the idea of contract postulates that individuals who enter into the contract are free to do things intheir own way; but Maine posits that the evidence of early lawand custom shows that primitive men had no such freedombecause primitive society rested not upon contract but upon*status*. This position was justified by the conviction that in asociety men were born into the station and the part they were toplay throughout life was not dependent upon a matter of choice orof voluntary arrangement in what relations men were to standtowards one another as individuals. In specific terms, thecommand of the law of status is that ‘He who is born a slave, lethim remain a slave; the artisan, an artisan; the priest, a priest’while merit, aptitude, and individual freedom were allowed tooperate only within the sphere of each man’s birthright.Based on these conditions, the very idea of individuals contractingthemselves into civil society would seem improbable. More over, even ifan original contract exists it cannot necessarily bind the descendants ofthose who originally entered into the contract. Rather, the guiding factoraccording to Bentham is not compulsion but the simple realisation thatrebellion does more harm than good.3) The theory appears to favour anarchy, hence it is dangerous inpractice. The premise of this conviction is based on the regardthat the State and its institutions were instituted as a result of theindividual will. To this end, it can be argued that there can besufficient authority if the individual will is contradicted. Thispoint was better stressed in Burke’s famous description of theState as an institution that ought not to be considered as nothingbetter than a partnership agreement. This is because it is apartnership in all science, a partnership in all art, a partnership inevery virtue and in all perfection. As the ends of such apartnership cannot be obtained in many generations, it becomes apartnership not only between those who are living, but betweenthose who are dead, and those who are to be born.’4) That the assumptions by almost all exponents of the theory arguethat men in a state of nature are equal is incorrect. This position ishinged on the German jurist von Haller (1768 – 1854) conceptionthat inequality, rather than equality, is natural.5) The theory is also adjudged illogical: This is because itpresupposes that the political consciousness which exists in apeople who are merely living in a state of nature could only bepossible in individuals who are already within a State.

**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 civilsociety (the second level in the structure of the modern state-the firstlevel is the family, while the state is the third, and highest level.). Thisconsists in the fact that the civil society which is simply ‘a form ofsocial organisation in which persons function as mere individuals orsocial atoms who happen to come together to satisfy their natural oracquired needs through some mode of exchange”(Doniela,1986) isdivisive while the state is a source of harmony. In effect, with the stateas a rational order, it should be able to ‘differentiate between the forcesthat are socially cohesive and forces that are socially disruptive”. Thus, for Hegel, while conflicts and their resolutions may be inevitablefeatures 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 “reconcilingrealm” where the individual freedom is harmonised with the interest ofthe universal. For Hegel, then, the state is a necessary good because itmakes possible the reconciliation of individual interest with theuniversal interest.

**Liberal-Democratic Theorists**

These theorists venerate individual interest and personal freedom tosuch an extent that they see the role of the state purely in terms of theprotection of individual rights and liberties. For them, politicalsociety(the state) is a ‘human contrivance for the protection of theindividuals property in his person and goods and (therefore) for themaintenance of orderly relations of exchange between individuals whoare 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 ofthe people’s lives, liberty and property, irrespective of the social class towhich they may belong.It is important to highlight the similarities and differences in Organicand the Liberal-Democratic theories.

**Similarities**

The Hegelian Organic Theory of the State and the Liberal-DemocraticTheorists agree on the following:1. Both deny the class, composition nature and historical characterof the state.2. Both assume that the state is a neutral political power.3. Both agree that the state is an inevitable socio-politicalinstitution.

**Difference**

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

**The Marxist Theory of the State**

This theory does not agree with the above positions. To Karl Marx, thestate is, essentially, a coercive apparatus which is usually in the serviceof the ruling class in a class-divided society, and it is a “product andmanifestation” of irreconcilable class antagonisms in society. In the*Communist Manifesto*, Karl Marx and Frederick Engels wrote that “theexecutive of the modern state is built on a committee for managing thecommon affair of the whole bourgeosie”. This contention aptly capturesthe class basis of the state and as an instrument of dominating otherclasses even though within classical Marxism, there is the conception ofthe state as *independent*, though rooted in the economic basis of society.In the *Eighteenth Brummaire of Louis Bonaparte,* K. Marx aptlyexplains this independent nature of the state using the revolutionaryevents in France evidenced in the industrial action of the bourgeoisierevolution which led to the overthrow of financial oligarchy. With thecrushing of the democratic forces by the industrial bourgeoisie and theevents leading to the rise of Louis Bonaparte (Bonaparte represents aclass, and the most numerous class of French society at that) as Marxnotes, under the second Bonaparte, ‘the state seemed to have made itselfcompletely independent”. In other words, there emerged the independentcharacter of the state. However, although the state was independent ofthe factions of bourgeoisie class, “yet” the independent nature of thestate at the political level is deeply rooted in the balance of class forcesand the struggles emanating from the principal contradictions within thestate.Based on this, the essential features of a state according to the Marxistsare:a. The state is a power, separated from, in fact standing above, andsociety. This special power according to Engel’s is necessarybecause a self-acting armed organisation of the population hasbecome impossible since the split into classes. Consequently, itexists in every class society and “consists not only of armed menbut also of material adjuncts, prisons and institutions of coercionof all kinds.b. Funds Acquisition: To maintain itself, the state requires fundshence it resorts to levying of taxes. In effect, as the stateapparatus grows as a result of the intensification of the classcontradictions in society, and between societies, the maintenanceof the state ‘swallows up more and more of the resources of thesociety’.c. The state divides its subject on the basis of territory unlike theclan 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 tiesas 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 themode 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 rootedin the fact that the state did not exist in the earlier periods ofdevelopment of the society when the mode of production wasvery rudimentary and undifferentiated, no division in the socialconditions, except between the two sexes, no division of societyinto categories of rulers and ruled, therefore there were noantagonistic classes. Instead, “social relations were regulated bythe force of habit, custom and tradition embodying common lifeand work.2. Institution of the social division of labour and the subsequentdivision of society into two classes: masters and slaves, exploitersand exploited .This came to be because of the development of themeans of production e.g. in agriculture, domestic craft etc, so thathuman labour can produce more than necessary for itsmaintenance. This development resulted in an increased amountof work by every household community or family whichsubsequently resulted in the need for more power, which wasobtained through war, the captives of which were made slaves.3. The need for the establishment of a public power to control theantagonistic relations/struggle between “classes with conflictingeconomic interests’ such as the class of exploiters and the class ofexploited. However, the state in playing this role expectedly isnot neutral as it becomes the instrument of the oppression of oneclass in this case the non-owners of the means of production byanother class, i.e. the class of owners of the means of production(economically dominant class). This brings to 3. The need for theestablishment of a public power to control the antagonisticrelations/struggle between “classes with conflicting economicinterests’ such as the class of exploiters and the class ofexploited. However, the state in playing this role expectedly isnot neutral as it becomes the instrument of the oppression of oneclass in this case the non-owners of the means of production byanother class, i.e the class of owners of the means of production(economically dominant class). This brings to bear the fact thatthe state contrary to Hegelian position does not reconcile theantagonistic classes in society. Instead, it maintains existingsocio-political relations in any class-divided society, so as topreserve the hegemony of one class over another.4. The character of the state and the type of “order” it maintains inany given society will be determined by the nature of its socioeconomicformation. This is because of the mode of productionprevalent in a society and its attendant social relations.5. The state seeks to regulate relations between members of theruling class so that they can maintain their cohesion as well asprotecting the interests of the ruling class beyond its borders, byprotecting its territory against external incursion and, at times,extending the frontiers of this territory at the expense of weakcountries. 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 asthey arise.6. The Free State or the welfare states are illusory as it is onlylogical that the organisation of ruling class for the maintenance ofits own interest cannot be free. For in protecting the interests ofthe economically and politically dominant class in society, it endsup suppressing the interest of the oppressed class.

**THE NIGERIAN STATE**

**Historical Context**

**Pre-Colonial Period: Exploring the Primordial Communities**

Originally, the pre-colonial societies (now known as Nigeria) were madeup of diverse polities inhabited by a variety of ethnic group’s withdiverse cultures and linguistic traditions at different levels of stateformation and development. Within these indigenous communities, traditional leadership institutions served the dual purpose of bothcultural and political leadership of their communities. Apart fromfocusing on the ideals of common good of all, the indigenous socialorders schemes sustained a consensual order that prides itself in publicaccountability because the communities checked leadership excesses onpublic trust and expectations so as to ensure harmony of relationshipsbetween the ruler and the ruled.It is important to note too that the autonomous political units withimprecise boundaries were subject to alteration depending on theleaders. This is because some societies had ‘organised’ political entitieswhile 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 iteasy to achieve uniformity of political and social organisations.Let us now do a review of the three types of socio-political groupings inNigeria so as to understand how the indigenous societies through theirdifferent age-old institutional forms, norms and values ensuredreciprocity in relations between the ruler and the ruled around basicprinciples.The first, socio-political groupings comprised of *centralised states*exemplified in the institution of Caliphate in the Bornu and Sakkwatoareas that shared indigenous African values and Islamic political system.Here, the ruler ruled in association with a traditional council of state thatformulates and implements policies within the framework of sharia(thelaw which Allah has revealed to guide human affairs).This feat wasachieved because the legitimacy and credibility of the leadership wasbased on ruling in accordance with the Sharia law(the law which Godhas revealed for man’s direction of human affairs). The implication ofthis explanation is that the law becomes supreme and not the ruler orpeople.The second socio-political grouping is comprised of the *centralisedstates* of Western/mid western states of Yoruba and Edo lands. Thisgroup premised on indigenous African values ensured that the ruler (aconstitutional monarch) did not act without the consent of the statecouncil which had a way of relieving the monarch of power andauthority if any acted in the contrary so as to uphold laws of governance.The third indigenous socio-political group in pre-colonial Nigeriacomprised of people of diffused governmental authority where theelders make decisions based on consensus that are unanimously agreedupon which expectedly will be binding on all. This was the situationamong the Igbo, Ijaw, Isoko, Tiv, Ukwani and Urhobo societies. Amongthe Igbo though, the terms ‘*acephalous and stateless’* are often appliedto them to depict a set of highly decentralised, segmentary lineage-oriented cultural groups dominant around the eastern region of Nigeria. Thus,although there is no agreement of the origin of the Ibos as a preliteratestock (Afigbo, 1980:73) their segmentary lineage forms as a mainscheme of social control does not amount to problems in leadership.Rather, they are deeply republican people with mapped out publicschemes for administering their public affairs through native customsand traditions that abhor indiscipline. The understanding is that thepolitical or culturally-rooted leadership that can manage power andauthority is not lacking. In effect, what holds in the Igbo traditionalconcept of political power and authority (often diffuse in character), isstructured and determined by the concept of *Umunna*(within thiscontext the leaders emerge through the family institution which most

times are patrilineal) while the memberships of associations are alsobased on title systems.

From the brief review, the apparent common strand among the threesocio-political groupings is that all the three had theocratic tendencies(based on morality) which not only ensured justice and peace butaccountability and administrative efficiency (lacking in the modernNigerian State). This was achieved through the checks on the exercise ofpower reinforced by social structures as council chiefs, age-gradeassociations, warrior bands and religious institutions evident in thedexterity with which rule of law was applied in judging situations.It is therefore clear that the pre-colonial system of administration wasnot autocratic and absolutist in nature. However, despite the feature ofmorality of the indigenous societies they had their weaknesses becausethere was one form of vice or another as we have today.

**Colonialism: The Creation of the Nigerian State**

In historical terms, it is an established fact that Nigeria came into beingin its present form in 1914 with the amalgamation by Sir Frederick Lugard of the two British protectorates of Northern and SouthernNigeria. This dramatically affected the demographic constitution of thecitizenry. The union was so sudden and included such widely differinggroups of people that not only the British who created it, but theinhabitants themselves often doubted its stability. This is evidenced inthe exacerbating identity differences between the three major ethnicgroups (Hausa, Igbo and Yoruba) and the minorities which nowdominate a Nigeria’s social and political scene. It also culminated in theperception of northern Nigeria as being predominantly Muslim while theSouth would be portrayed as being predominantly Christian, furtherexacerbating the differences. What is worthy of note is that it appearedthat demographic constituency of the new state was politicallyengineered in order to placate certain interests.Basically, colonialism or ‘colonial situation’ was a disruptive force evolution of the Nigerian state and of democracyvariously. Balandier’s argument was that understanding the realities ofthe society under colonial rule cannot be divorced from the interplay ofthe relationships between the coloniser and the colonised so much sothat it brought about ‘dislocation of state-society’ relations. It is thisdislocation that has underpinned the character of the Nigerian state as itrelates 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 thedefinition of the citizenry occurred simultaneously.Second, the modernisation process was the dividing point between precolonialprimordial structures, so much so that traditional institutionswere not only marginalised but aided the transformation of the rural‘tribesman’ who was not conscious of their differences into the modern ‘urban’ ‘ethnic man’. Third, the colonial state was created basically to ensure law and orderwith no ‘welfarist’ pretensions which was *sine qua non* for furtheringthe ends of colonialism which is contrary to colonial ideologies of‘civilizing mission’.However, while this was on, the individual’s identity with, and loyaltyto the state transformed. This is in relation to the emergence ofautonomous state ethnic organisations that came to be welfare agencieswhich emerged and therefore became something of an ‘alternative state’or, in any case, a rival, competing with the state for the individual’sloyalty and support. To this end, it could be said that apart from thecolonial experience bequeathing a political economy that emphasisedpatronage over production, it created a political culture that tried tosocialise 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 attitudestowards the state and its apparati, and the conviction that nothing waswrong with ‘stealing from it”. By and large, in sum, it was conceived asnormal to for an individual to loot the state’s treasury to the benefit ofhis/her group. It also bequeathed commerce over industry and state overcivil society and market forces. This provided the basis for state-ledcorruption that is a hallmark of governance in Nigeria. However,because the citizens disagreed with this manner of government, somesections of the state were encouraged not to pay taxes and, in others, tovandalise government properties. This practice not only exploitedNigeria’s diversity but to date is one of the crises of citizenship andidentity in contemporary Nigeria.In fact, it is important to state that within this context, the colonialsituation propelled the ‘ethnic associations to turn into political partiesand interest groups, thereby becoming the major claimants to power’.Thus, political struggles became primarily an instrument for securingaccess to state resources for particular ethnic and social groups and thusbecoming 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 asrecruiting fellow ethnics to fill positions over which s/he had control,and to concentrate government projects in his or her ethnic homeland ifs/he is in charge of the responsible government department.The summary of the impact of colonialism transcends being an episodeas some African historians have argued (cf. Ade-Ajayi, 1968), toepochal dislocations. This is in no other sense that apart from the resultof the continuities in the ‘dislocations’ which has underpinned thecharacter of the Nigerian state as it relates to ethnicity, minority issuesas well as the politics of citizenship it also nurtured an alreadyfragmented elite class. Accordingly, colonialism created the‘infrastructure’ for ethnicity through building alien and mostly artificialpolitical structures that lumped diverse people together. This is in termsof: urbanization, improved transportation and communication facilitiescreating new abodes of acquaintances; through Western education,social amenities, new jobs, the monetisation and integration of theeconomy all of which nurtured unequal competition for scarce resources(Osaghae, 1994).

**Independence/Post Independence**

Starting from the late 1940s, the local anti-colonial movement instead ofdemanding greater participation of the local elite in the colonialenterprise, the movement changed its demands to the quest for fullindependence. Subsequently, on the Ist of October, 1960 despite manydifficulties and differences among its various component groups,Nigeria became a sovereign State. Consequent upon this, independentefforts were made by the new government to meet the social compactforged during the national mobilisation against civilian rule. However,contrary to expectations, independence unfortunately did not change theissues raised in (colonialism) given that the First Republic became miredin ethnic and regionally-based power politics so much so that it wasriddled with unparalleled violence, vote-rigging, nepotism, corruptionand mismanagement. The reflection of the political upheaval in thecountry inevitably led to the country being under military dictatorshipfor more than 30 years of its existence as an independent nation, startingin January 1966 with the coup of Major Chukwuma Kaduna Nzeogwu.Consequent upon this truncation of civilian rule, Nigeria had to endurenine military coups with seven military heads of state who constantlyjustified their usurpation of state power on one objective: to restoreorder and good governance in the polity. But ironically, successiveregimes, with the exception of Ironsi and Buhari/Idiagbon (1983-1985),who promised and initiated transition to civilian rule programmes it wasonly the Obasanjo (1976-1979) and Abubakar (1998-1999) regimes thatfulfilled them. With the successful execution of the transitionprogramme (June1998 to 29 May,1999) the Abubakar regime finallynipped 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 ondemocratic culture that will protect the rights of Nigerian citizens (notonly a few)and invariably must express their views through unrestrictedcommunication between the government and the governed as well asactive citizens’ participation in governance. However, this was not sobecause military rule is not only an aspect of militarism but a totalculture and a way of life. Expectedly, military intervention in politicsculminated into the militarisation of society so much so that the politicalculture of the leaders as it relates to relationship with citizens has beenthat of intolerance and impatience in the face of dissent. In fact, to datethe militarist culture is still reflected in the behaviour of many electedofficials under civilian rule so much so that the character of partypolitics has been on disagreements along ethnic lines over the allocationof national resources, including top government positions, and thefrequent ‘ethnicisation’ of military coup d’etats and regimes whichindeed 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 theexecutive and the legislature is still undermined. For example, while theattitude of the executive is largely intolerant the legislature tends to overexert its oversight powers on the executive. At the state level thegovernors are always at strife with the legislature so much so thatimpeachment clause is invoked even in issues undeserving. Littlewonder that legitimacy of the 1999 constitution has been contested tothe extent that there is agitation for genuine democratic reforms. Theconcept of a constitutional democracy requires the elected governmentto be responsive to the needs of the people, their rights, well-being andsafety and not following a military command structureAt this point, it is pertinent to state that the ‘political culture’ ofdemocracy constitutes:(a) A reflection of norms and values that place a premium on thefreedom of the individual-freedom from the state abuse andinfringement of rights by other individuals.(b) Guarantees equality before the law(c) Provides opportunities for all citizens to have equal access to thematerial and cultural resources that guarantees basic livelihood.However, the paradox is that the Nigerian democratic culture appears tobe in a dilemma in achieving these features because of themanifestations of authoritarianism such as arbitrariness, intemperatelanguage, total absence of debate, intimidation of civil society, totaldisregard of civil rights, absence of rule of law and due process, totaldisregard 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 Nigeriansare still impatient with matters that require due process but because thestructure of the State and pattern of allocation of resources needs to bedemilitarised. In the absence of these, Nigerians will not only continueto be intolerant of one another but be embroiled in the lack ofacceptance of ethnic diversities, religious pluralism and culturaldifferences. This frustration with the pattern of orientation hasculminated in the resort to violence which is now a common feature inCitizen-State relations.In sum, the issues raised above bring to bear the fact that independencewhich obviously was merely a ‘change of guards’ rather than stateapparati unfortunately did not change the issues raised in (colonialism)such as:(a) The retained ‘alienated’ character of the State as well as thecontinued emphasis on law, order and violence (b) The primacy of the state was greatly reinforced given that it is atthe centre of the extraction and distribution of resources which isof primary interest to all groups and classes. Expectedly based onthis, ethnic politics became centred on capturing the reins of statepower while inter-group competition for state power got so fiercethat it resulted in the protracted civil war (1967-1970)between theFederal government and the Ibo in particular who did not feelsafe and secure anymore within the territorial entity known asNigeria.(c) The institution of primitive accumulation of surplus basicallyinvolves the using of the state to create the ‘means ofproduction’, a process that had ensured that ethnicity was easilybecoming a mask for class privilege.(d) The emerging political parties were bent on playing the sectionalcards thereby failing to offer effective platforms for nationalpolitical mobilisation. Also the colonial policy and lack of visionmade them become detached from the people and their socialmovements.

**Re-Orientating the Nigerian society**

What is therefore needed is the total reorientation of Nigerian societyfrom authoritarian culture to embrace the norms and values ofdemocracy which can be achieved through a ‘massive education of thecitizenry’ through the media and civil society organisations. The

reorienting of the society must be at three levels: the family, society andthe 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 arecommanded instead of being consulted. The expectation is that attitudesshould guide behaviour and any thing short of this is termeddiscrepancies between attitudes and behaviour. To therefore be a part ofthe process of re-orientating the family towards a democratic culture,children’s rights need to be inculcated in the home in order to nurturefuture democrats (IDEA, 2000:53). In effect, for a well roundedupbringing parents should be less autocratic, less overbearing and lessrigid with children. In effect, children should be socialized. The essenceof this is to checkmate the incremental possibility of militarised society.**Society**The essence of building a strong civic culture among the citizens is thatmost civil society organisations due to the incursion of military ingovernance have tended to focus on the civil and political rights to thedetriment of economic, social and cultural rights. However, it must bereiterated that democracy must yield dividends in order to reinforce civilsociety only through political education at all levels of society. This ispertinent because as long as the attitude of the leadership is positive

towards the culture of democracy the citizens will inevitably beobligated to it. In effect, Nigeria needs to build on its institutions aswell as on policies that are people- oriented so as to enhance thedevelopment of its citizenry. The necessary issues are issues likeeducation (this institution should be where democratic values areimparted through teaching of civics which borders on the need to createan atmosphere for students to transcend the limitations of their differentprovincial knowledge and orientation), media (this institution is a part of

democratic institutions that need re-education and re-orientation onlegislative processes and procedures), arts ( the idioms of arts andpopular culture i.e. songs, theatre, dance, drama, masquerades, poetryand novel forms should be used to consolidate a democracy of a state),political parties(government should democratise the formation ofpolitical parties), religious( the freedom and rights of all religiousgroups in Nigeria must be guaranteed) and traditional institutions(theappointment, maintenance and deposition of traditional rulers should bethe prerogative of the people through the king-makers), human rightscommission, gender equality, corruption and decentralisation.**The State**The problems and challenges of the structure of the Nigerian State canonly be achieved when the problems and challenges that are itemisedbelow are addressed. These are:1. The practice of a federal system should be in reality such that powershould be devolved to an acceptable level in the federating unit andnot on paper. This position becomes important based on the fact thata federal state, is a political contrivance intended to reconcilenational unity and power with the maintenance of state rights forcertain common and mutual purposes.2. There should be an adherence to the provisions of revenue allocationthat would be in the adherence with the Constitutional Allocation ofRevenue between the Federal, States as well as the LocalGovernment are in sections 162-168 as well as A and D of part 11second schedule under the 1999 constitution. Section 162 of the1999 constitution provides for common pool of financial resources(called the Federation Account) which is to be distributed among theFederal and State Governments as well as the Local GovernmentCouncils in each State, on such manners as may be prescribed by theNational Assembly. In the same vein, S. 162(2) sets out to pacify theoil-producing areas agitating against the Federal Government

owning a lion share of the mineral revenues. The allocation of 13%to the states of origin resusciticates the principle of derivation.3. The executive should display more of openness and transparency inleadership.4. The civil service should jettison bureaucracy and ensure that peopleare served promptly, politely and efficiently.5. The legislature should make laws independent from the influence ofthe executive.6. The anti-corruption should not be about witch-hunting but an agendaaimed at nipping corruption in the bud.

**SOCIETY AND STATE RELATION**

**What Constitutes the Society?**

The individual is essentially a member of a society. Society here isidentified as the sum of social organisations which interact within thestate’s boundaries, as well as with the state. These organisations rangefrom ethnic, religious, linguistic and kinship groups, clan and tribeassociations, to patron-client relations, economic groups and diversemodes of production(agricultural, industrial, share cropping, pastoral).The common strand for these organisations is their struggle to formulateand enforce their own rules and regulations for the ordering of socialand political life. The implication of this is that the society with itsnumerous and diverging social organisations had long preceded theformation of the State.

Owing to most accounts of the origin of the state (both the bourgeoisand Marxian theories of the state), the state evolved from the society.However, while the former holds that the state and society maintainequilibrium in their relations, the latter argue that the state dominatessociety and is an instrument of class domination. To this end, the State can besaid to be ‘embedded’ in the society in mutual interrelation with othersocietal actors (Rolf, 1996:99). This makes it subject to pressures andinfluences from actors of the organisations representing the society in anattempt to create a certain balance between State and society.

**Dislocation of State-Society Relations**

Based on the above perspective it is obvious that the dislocation in statesocietyrelations is traceable to the dislocation of state-society relationsin Nigeria (and indeed Africa) brought about by colonialism. In effect,because the modern state was created by colonisers i.e. did not evolvefrom within society but outside of it the state has been purported as notonly an importation but an imposed creation which expectedly wasdevoid of morality.Scholars have therefore argued that while the society retained a moralorder due to the commitments of individuals at community level, on thecontrary the state was founded on a moral vacuum. It is this distortedgrowth of the public realm, given the tradition which dates back to theGreek which conceive of the society as a private realm and the state as apublic realm that has made ethnicity such a salient force in Africa. Thisdislocation further underpinned the character of the Nigerian state-statesociety in relation to ethnicity, minority issues as well as the politics ofcitizenship. The fragmented moral order by plurality of groupscontained in the state, state-society relations produced not simply thepublic-private realm dichotomy, but also a dichotomised public realm.To this end, emphasis was on the individual’s duties to fellow ethnicsand ethnic group at large. Obviously, it is expected that socialorganisations under the leadership of “strong men” such as chiefs,landlords, bosses, rich peasants, clan leaders, money lenders and localbusiness men will exercise social control by using a variety of sanctions,rewards and symbols to induce people to behave according to certainrules and norms. Expectedly, also, these social organisations and their‘strong men’ prevent state leaders in developing the state’s ownmobilisation capabilities, which in turn weakens the state.Flowing from the above, the relationship between the Nigerian State andSociety like most developing states, is segmented along ethnic, socioeconomic,religious and other fault lines. This non-indication of muchcommonality among non-state actors led to competition for a resourcewhich begins at the level of access and control of the state by the variousfactions of the ruling class culminating into civil strives and conflicts aswell as the social and political engineering in tow.To aid this struggle, each faction mobilises existing cleavages andidentities in the society especially those of ethnic groups and religioncouched under ethnic militia groups. Forexample the Movement for the Emancipation of Niger Delta (MEND),Movement for the Sovereign State of Biafra (MASSOB) in the East andthe defunct ODUA People’s congress bear witness to this. Themobilising force is ‘parochialism or primordial attachments’ i.e themobilisation via the people’s attachment to a leader whose charismabecomes the major source of legitimation and whose organisationbecomes the link between civil-society interests and the public sphere.

**Civil Society Organisations (CSO)**

An important aspect in these societies are the existence of importantindependent institutions known as civil organisations which contributeto the effectiveness and stability of the democratic government becauseof their ‘internal’ effects on the individual members and their externalinfluence on the wider society(Putnam,1993:89). Given that ‘civilsociety’ has a variety of meanings for this course, however, let us adoptMouzelis(1996:52), rather restrictive definition because he argues that tostretch the civil society notion to cover also non-state groups andinstitutions that exist in all state societies(e.g. traditional chiefdoms )weakens the concept’s analytical utility. Civil society, to him, refers toall social groups and institutions which, in all *conditions of modernity* liebetween primordial kinship groups and institutions on the one hand, andstate groups and institutions on the other. By *conditions of modernity*, hemeans social settings where not only the public and private spheres areclearly differentiated, but in which exist also a large-scale mobilisationof 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 andsociety through:(a) Ensuring that the rule of law conditions effectively protect citizensfrom state arbitrariness;(b) The existence of strongly organised non-state interest groups iscapable of checking eventual abuses of power by those who controlthe means of administration and coercion.(c) That there is an existence of a balanced pluralism among civilsocietyinterests so that none can establish absolute dominance. Thispoint presupposes that where people are brought in an authoritarianfashion it can be said to be a weak civil society.Based on these features, it would not be out of place to query if politicalparties should be considered as part of a state or civil society? There aretheorists in favour of either as well as those who distinguish between thestate, civil society and political society and locate the parties in the

political –society category. For our purpose in this course, politicalparties (that the main objective is to capture power) can be considered asthe major organisational means for articulating civil-society interestswith the state particularly in a democratic dispensation. This is becausepreviously the distribution of political, civil and socio-economic rightswas uneven and restricted. In fact, where it was available, the lowerclasses, although brought into the national centre, were left out as far asbasic rights were concerned i.e. the rights guaranteeing them areasonable share in the distribution of political power, wealth and socialprestige.Thus, given that basic rights was achieved either from above (by elitescompeting among themselves for the political support of theunderprivileged), or from below (via the economic and politicalorganisation of urban and rural workers) the popular struggle for theacquisition of rights began on the political level. For instance, whatpreviously was centred on efforts to obtain the right to vote or to formassociations has now transcended in recent times in the form of popularmovements demanding the improvements in the quality of life in allaspects (environmental movement, gender etc). All these bring to bearthe fact that democratisation is not only about the political but also theeconomic and cultural spheres.In specific terms civil society organisations play a legitimate role inensuring that established principles guide both the specific actions of thestate and the overall goals of national development. They are importantactors in helping to create and strengthen the culture of rights within acommunities and country.

**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 throughlegal coercion by declaring and enforcing laws. Society, on theother hand, relies largely on persuasion.3) The organisation and structure of the two are different; state isgenerally organized as one whereas the society has a multiplicityof organisations.4) Functionally, items covered by the state and society are notmutually independent. But both act differently on these aspects.There is legal action and social action. Law can make anindividual attend church service, social action but can it convertyou into a religious person i.e. the “inwards development’?

**LEGITIMACY AND POLITICAL OBLIGATION**

**Understanding Political Obligation?**

In broad terms, obligation means to bind morally by some favourrendered or to legally constrain by contract or by duty. In practicalterms, political obligation is the legal imposition of obligation on thecitizen to obey the laws of the government which usually leaves theindividual no option but rather containing a penalty in-case of failure(through the law).The implication of this is that states do not foundrights entrenched in state laws and degrees, to be obeyed on force but tofunction as enabling laws or rules which impose an obligation to obey.For instance, the individual cannot decide whether or not to pay tax ornot because it is non-negotiable expectation by the State from the citizento do so. More over, the membership of a state is not like that of thesocial institution where one is not obligated or bound by its rules.However, the legal imposition of obligation on the citizens to obey Statelaws, however, is congruent upon the government acting justly orensuring through its laws that just relations prevail among its citizenbody.Thus, the premise of a citizen’s obligation to the state is premised onconvention and contract as explicitly stated in Rawls (1971) *A Theory ofJustice*. The bane of this theory is based on an assumption about animaginary group of future members of a proposed society who cametogether and proposed a social contract in which the participants orindividuals (the rational contractors) choose or selected principles ofjustice that will govern them.Accordingly, the *rational contractors* or the persons in the *Originalposition* of the proposed society or the constitutional convention agreedto be under a *‘veil of ignorance’.* This ‘veil of ignorance’ ensures thatthe individuals to the pact have minimal information about knowingtheir roles, status, profession (be it labourers, civil servant, a lawyer,medical doctor etc) prior the division of labour in the society. Theessence 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 individualdecision-maker, the party,’ makes choices in what is even constructivelya ‘sequence’. But for Rawls it is plausible especially considering that thesupposed members of the convention, having selected their principles,would legislate on it before it becomes a ‘constitution’ prior applicationto 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 ofjustice which the bargain embodies such as: (a) the equal libertyprinciple and, (b) the principle of efficiency(i.e. it promotes efficiency)believing that it will be applied impartially to every participant oranyone affected by it in order to sustain the basic structure of a wellorderedsociety or better still determine how basic goods of the societyare to be distributed. The aim is justice and fairness in distribution.However, since to have laid down the fundamental charter of such asociety does not constitute the how and why or even if it is necessarythat the aforementioned principles apply to individuals it becomesparamount to know the set of principles that the rational contractors arelikely to agree to regulate the behaviour of members. The implication ofthis, in practical terms, is when institutional rules are to be obeyed. Thisimplies that the rational contractors would enjoin those who havevoluntarily accepted the benefits of a just co-operative scheme to bearthe burdens associated with the stability of the scheme. Mostimportantly, given the possibility that a social arrangement may be justbut with a dearth in the provision of public goods, the contractors arelikely to consider another principle that may enjoin all to support thescheme/institution whether the individual has gained under thescheme/institution or not.These set of principles Rawls adduced are a) *a principle of fairness and(b) a principle of natural duties.*

**Principles of Fairness as Congruent to a Citizen’sObligation to the State**

The notion of *fairness* defines a citizen’s obligation to an institution orstate. This principle is fundamental to Rawl’s conception of justicebecause once a member has accepted the benefits of a mutuallybeneficial and just scheme that is based on social co-operation, thatguarantees 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 againsttaking advantage of the free benefits by non-co-operation.Broadly ‘fairness’ borders on some consideration, which is only relevantonce a given distribution has been met. This definition presupposessatisfaction with some distributive end-result. However, this conceptionof ‘fairness’ as ‘being satisfied with a distributive end-result’ does not inany way specify what the consideration is given that ‘fairness’ embodiesissues like: how fair was the bargain/contract entered into? And whetherthe relevant distributive criterion, was based on, ability or need? Basedon this, it would seem that what a ‘fair’ bargain is in any givendistributive situation will be a function of the effect on participants orbeneficiaries. The application of the *principles of fairness* in thedistribution of the basic goods in the society is expected to be in such amanner that ensures justice (social justice) for all its members therebyeliminating arbitrary distinction between competing claims.To therefore guarantee the fairness of distributive outcomes quiteindependently of the consent of the participants or beneficiaries somespecified conditions must be present before a person can be said to beobligated to abide by the rules of the institution/state. The conditionsare:(a) That all the future members of the proposed society typically mustvoluntaril*y* accept (and must intend to continue to accept) theprinciples of “obligation” to be chosen.(b) That the already existing society must already have had itsprinciple(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’ societyis not merely individualistic, and in that sense conflict-free, whichmakes it difficult in fact to imagine when and how to ascertain the‘voluntary acceptance’ of an aggregation of more or less equalindividuals ‘of what constitutes the principle of fairness’? In view of thisdifficult situation, it becomes apparent that the *rational contractors* orthe persons in the *Original position* would not want to be obligated todefend an institution that might be unjustly based on extremelyburdensome institutional rules. A typical unjust state is a bankrupt statewhere government engages in white elephant projects or maintainsoutright irresponsible public services evidenced in the state not living upto the expectation in the provision of public goods such as nationaldefence, good roads, health programmes, law and order. However, facedwith the difficulty of ascertaining the ‘voluntary acceptance’ of anaggregation of individual’s two considerations become apt to ensurecaution. The first is that the contractors should not lose sight of the factthat the principle of equal liberty served as a guide in choosingprinciples for individuals in the original position. To this end, it wouldappear apt to accord the individuals the liberty of not obeyinginstitutions whose benefits they have not voluntarily enjoyed. Second, asa condition of institutional obedience, a police state may be instituted so

as to regulate citizens’ behaviour through force/coercion (may bethrough the law). This is aimed at guarding against the unpleasant (butquite possible) consequences of revolutionary tendencies of someindividuals.Following from the above, it is pertinent to examine when an individualcould be said to have the ‘voluntary acceptance’ of benefits receivedfrom enjoying the public goods (national defence, good roads etc) of theState involved in the principle of fairness? Voluntary acceptance ofbenefits could be said to occur according to Richard, (1971) “wherethere is some *mature option of choice*… with the intention andexpectation of encouraging others to rely on you to do your part inbearing the burdens, so that they will be encouraged to do their part……The implication of this, (in principle) is that no young child or evenadult who is not financially independent, and thus capable of choosinghis/her own life, is bound to his native country. This is because he /shehave no mature option of choice between accepting and not acceptingthe benefits of the legal system. To this end, such an individual is atliberty to choose whatever country he pleases”.However, this *“mature option of choice”* has been debunked practicallyon the grounds that it does not appear plausible given the expense oftravel and the often stiff immigration requirements of most countries. Despite this contrasting view, Richard maintains theoptimistic stance arguing that as long as there is increasing rapidity oftravel and communications between nations, growing availability oftravel to more income classes, and the reduction of immigrantrestrictions between nations… the possibility of real choice widens, andwith it the applicability of the principles of fairness”.But irrespective of Richard’s optimism, it appears that “voluntaryacceptance” of public benefits/goods though stimulating still remainsessentially unrealistic. The apparent realistic and genuine argument willbe to argue that in as much as an institution or a state is logicallycommitted to providing collective goods or public goods (nationaldefence, good roads, health programmes, law and order etc) for itsmembers/citizens, then the question of whether or not an individualmember 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 ofinstitutional obedience based on the understanding that obligations (e.gpromissory and contractual obligation) have to be voluntarily assumedin 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 bindingobligatory act is. To this end, he maintained that each citizen has anatural duty (a duty derived from the principle of positive natural duties)

to promote and support just institutions and arrangements. This isirrespective of the prior understanding of political obligation as a resultof a mutually beneficial scheme of social co-operation or even as a dutyderiving from “fair play” In sum, most importantly, it is expected thatthe defining features of indivisibility (equal availability of public goodsto all citizens) and non-excludability (collective goods should not bedenied to any citizen) are strictly adhered to.\*These features of public goods will be explained better later in this note.

**Principle or (precepts) of Natural Duty of Justice**

This principle conceives a citizen’s support and compliance with justinstitutions as a natural duty. This principle rests on the fundamentaldistinction which Rawls (1971) makes between two distinctiveprinciples: the principle of natural duties (which includes the naturalduty of justice) and the principle (or precept) of natural justice.This principle is based on the two principles of justice. In effect, wherethe basic structure of society is just, or reasonably just from the angle ofa partial compliance (non-ideal) theory, then every individual in a stateis bound to comply with the institutional rules. This principle isestablished on the features that define the rule of law or the precepts ofjustice associated with the general administration of law.The practice of the principles (especially the equal liberty principle) atany given moment it may be adopted at the constitution-making andlegislative stages, for instance, in Nigeria- the National Assembly andHouse of Representatives, and when it is assented into law, it becomesthe paradigm or reference point. Paradigms not only provide aframework for problem solving, they involve a series of othercommitments. Put differently, for rule of law, once the paradigm isestablished, it constitutes some sort of restrictions on individual rights inthe sense that the rights will be defined within the ambit of the rule oflaw for the regular and impartial administration of public rules. Theessence of this ‘*justice of regularity’* is to constrain all those involved inthe administration of law to act in a manner which will enhance theexercise of individual liberties. The general principle which serves as arule or guide for the notion of natural justice is that judges interpret andapply the rule correctly, or that those who enact the laws and give ordersin similar cases ensure that sanctions for law- violation should beproportionate to the crime. In effect, the rule of law depends not only onthe provision of adequate safeguards against abuse of power by theExecutive, but also on the existence of effective government capable ofmaintaining law and order as well as ensuring adequate social andeconomic conditions of life for the society.The obvious advantages of this principle over the second arm of theprinciple of fairness which is more or less like it, is that it does notpresuppose any act of consent or any voluntary act in order to obligate.In sum, the natural duty of justice, Rawls contends, is ‘the primary basisof our political ties to a constitutional regime or rather that it is theprinciple which binds citizens generally to their political institutions’.

**Principle of Natural Duties**

This principle (like other principles for individuals) is an importantcomponent of the notion of right given that it helps to define variousinterpersonal 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 principlesof justice are principles for the design of institutions and practices, andnot principles for individuals.

What is particularly useful for our purpose in view of the contention ofjustice as fairness (earlier conceived in relation to political obligation asa duty deriving from “fair play”), is that the *fundamental natural duty, isthe duty of justice*. The rule of this duty expects citizens to support andcomply with just institutions already in existence. And, where noinstitution is in existence, to establish such institutions if it can beachieved without much inconvenience.Essentially the natural duty of justice, Rawls contends, is the primarybasis of our political ties to a constitutional regime or rather that it is theprinciple which binds citizens generally to their political institutions.From this analysis, one fact is immediately obvious and that is, that theprinciple of the natural duty is premised on the two principles of justice.So, it could be argued that where the basic structures of society havebeen validated with just rules, or even as just as can reasonably be, thenall 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 anyhomologous (agreeing: of the same essential nature, corresponding inrelative position, general structure, and descent) relationship betweenthe two though no logical difference exists between what the twoprinciples 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). Thisadvantage brings to the fore the coercive feature of the concept of dutyin relation to certain social ties or interpersonal relationships (like theduty of non-interference with property of another) which may involvetheir performance being enforced. Second, this principle does notpresuppose any act of consent or any voluntary act in order to obligate.Third, it also, applies to everyone irrespective of their institutionalrelationships.However, the adoption of these principles is dependent on how rigorousor convincing the natural duty of justice will be to other natural duties.But given that Rawls did not provide any priority scale for natural dutiesto be applied except that negative natural duties precede the positiveduties in concrete terms therefore, the natural duties of malfeasance(especially of an official illegal deed or evil-doing which one ought notto do) and non-malevolence may supersede the duty to establish andadvance the state/institutions. Thus, although the natural duty of justicelikes other duties, appears convincing, however, the task it assigns inrelation to the law in any given situation is a *prima facie* one i.e a taskthat does not involve too great a cost either to oneself or to someoneelse.

**Types of Duties**

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

1. **Negative duties**: These duties negatively require individualmembers of a state to refrain from performing bad acts. Examplesof this class of natural duties are principles of non-malfeasance(forbidding killing or causing unnecessary suffering) and nonmalevolence(which proscribes having evil, malicious intentionstowards others).2. **Positive natural duties:** These duties enjoin individual membersin a state or an institution to perform good actions. Putdifferently, the principle of positive natural duties is related to theconviction that each citizen has a natural duty to promote andsupport just institutions or arrangements, which is predicated onthe performance of good actions. For instance, the natural duty ofmutual aid, which may require, for example, that a person shoulddo a great good to another person if such a good can be broughtabout at little cost to oneself. In addition to the duties of mutualaid and non-malevolence is the duty of non-interference with theproperty of another and guidance of, the action of highlyirrational or the duty of care as regards non- rational persons suchas the insane and children which every citizen is required toperform(if they can) so as to avoid unnecessary bottlenecks.It is important to state here that though Rawls did not particularly stressany distinction in relation to positive and negative duties, however, thedistinction as regards negative natural duties normally precedingpositive duties cannot be overemphasised given that it will facilitate thepriority problem between various duties.Sequel to the above duties, Rawls further alludes to the “duty to opposeinjustice” which borders on justifiable civil disobedience (this will beexplained later in unit 5 of this module). The ‘duty of opposition’obviously from the understanding of duty in the context of institutionalrules and as a principle of various interpersonal relationshipspresupposes the possibility of the exertion of coercion. Coercion in thiscase, by implication is the direct limiting of freedom as curtained (in theexercise of duties) by force. Aligning the idea of duty with the idea ofcoercion is therefore not unusual based on the likelihood of enforcing orimposing the performance of some duty on say: the tenant to thelandlord in respect of rents, the duty of the debtor to his creditor inrespect of loans etc to mention a few. Based on these examples, it is aptto say that a duty essentially is something required of someone whetherhe or she feels like it or not.

**MORAL CONSTRAINT TO POLITICAL OBLIGATION**

**What is Morality?**

Morality is defined as ‘the quality attributable to human action byreason of its conformity or lack of conformity to standards or rulesaccording to which it should be regulated’. Based on the claim thatpolitical obligation ultimately rests on moral reasoning, ‘morality’ as itrelates to the context of political obligation will be defined in line withthe general criteria which have emerged from an examination of thevarious prescriptive definitions of ‘morality’ by W.K. Frankena (1966).According to him, individuals X’s action or principle of action is amoral 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 supremelyauthoritative.(d) It includes or consists of judgments (rules, principles, ideas, etc) thatpronounce 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 sentientexperience, actual or hypothetical (or perhaps simply because of theeffects on humanity, whether in his own person or in that of another).

**Conceptions of Morality**

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

This conception makes morality a matter of authentic personal choiceand decision. This existentialist view is the most extreme especially asthey reject the universalisation requirement on grounds that man’schoices are freely (existentially) made and every existential situation isunique. Ideally, no justification is required for man’s choices beyond thefact that they are existentially made hence if man’s choices cannot beuniversalised, 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.One the other hand, Vernard Mayo and John Ladd as well as Hare andNowell-Smith argue that one’s principles are moral as long as oneconceives them to be over-riding as well as the willingness to see otherstake them as supreme. This position provides morality with a socialdimension in that it entails legislating for others while retaining thecontent and form IE which are relative to what the individual decides toaccept or reject as a way of life.The key objection and criticism of the IE is worth mentioning. This isrelated to its refusal to accept that *content* in its existentialist form isintrinsic to morality. The implication of this in its other words is sort ofsaying that a moral principle can have any content whatsoever and thatany principle of action (e.g. stand up and walk or manhandle the firstperson you encounter in the morning) can be a moral principle. Thisconception 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 regularlyguided by moral principles’. More over, the IE seems to make nonsenseof the central question ‘why should I obey the law?” This is as it relatesto, for instance, an individual accepting obedience to the law as thesupreme authoritative principle, it would therefore be out of place toenquire why he or she should live or abide by such a principle. Also, onthe contrary, if he or she believes ‘obedience to the law” does notconstitute morality or a moral principle, there would still be no useasking ‘why obey the law”?

**(b) Trans-Individual Ethics (TIE)**

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

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

**Understanding Prima Facie Moral Obligation**

Based on the above analysis, we shall now ascertain if at all, theseconceptions will in any way enhance the understanding of the relevanceof morality in the context of political obligation. This is alongside thearguments of Hart(1973) and Rawls(1971) that justice or the existenceof just relations among individuals in a cooperative venture or institutionis reason enough for the duty of institutional obedience. According toRawls, 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 isexpected to be in such a manner that ensures justice (social justice) forall its members so as to eliminate arbitrary distinction betweencompeting claims.More over, it will serve to justify the ideas of liberty, equality andreward for contributions to the common advantage which the principleof justice encompasses. To this end, a citizen of a state is expected toobey the government of the state. Based on this standpoint, theobligation of the citizen to obey the laws of the state is, however,congruent upon the government acting justly through its laws that justrelations prevail among its citizen-body. In specific terms, this kind ofobligation is usually termed *prima facie moral obligation.*The phrase *Prima facie* specifically was used first by Ross\* in theclassification of duties. In effect, prima facie has been used in relation *to*Political Obligation because an obligation to obey law is couched in anobligation to which some weight is attached (Peter, 1973). This is as itrelates to an obligation which according to Ross (1930) “is notexpressing a duty but something connected with duty”. In effect, ‘theultimate factor in moral decisions and actions is not necessarily the‘good’ act, but rather in the performance of duty which transcends theexpectation of pleasure or happiness’. Some of the examples of primafacie duties which are based on moral relations are duties of fidelity, ofreparation, of gratitude, of justice, and of self-improvement. In otherwords, when an individual repays a debt s/he redeems it moreimportantly based on the realisation that to incur a debt is to placeoneself under an obligation, rather than the hope to maximise the goodof 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 (onewhich is different from a proper duty) which an act has in virtue ofbeing a certain kind (the act of promise keeping), of being an act whichwould be a duty if it were not morally significant at the same time ofanother kind”. This argument has also been contested by scholars whodisagree with the phrase ‘conditional duty’ as being able to stand in for*‘prima facie duty’* on the strength that the former alludes to aconditionality(a dependent variable) which must be present before theperformance of *prima facie* duty which is not always the case (Adeigbo,1991). This is premised on the feature of prima facie duties which is toexist irrespective of the circumstances within which they might occur.Based on the foregoing contentions, it is out of place to suppose that aprima facie duty is binding only as a last resort i.e. when there is noother duty or obligation.What can be adduced at this point, is that unless there is cause forpessimism about an obligation being voided by one party there is nojustification not to uphold the obligation. In effect, there is always apresumption in favour of carrying out and performing an act which fallswithin the description of prima facie duties until the obligationcountervailed by a more stringent obligation. In view of all this, themoral obligation to obey the law, therefore, should be understood asmeaning a presumptive (to take as true without examination or proof orto take for granted) moral obligation. This presumption is quiteconsistent with maintaining that if the government passes too many lawsin suspicious circumstances with dubious objectives and motives, orenacts laws that are manifestly unjust, it is then dependent on the peopleto exercise their right to resist tyranny and injustice definitely willsupersede their duty of obedience.It is important for the student to take cognizance from the foregoingcontentions the fact that *prima facie duties* are not absolute or even“actual duties”. These are authentic, conditional duties that must beperformed. The meaning of this is that while members are conscious ofthe principles of fulfilling a pact/promise, there are situations when themembers may be justified not to perform these duties. Hence, that an actis or becomes an actual duty is not dependent merely on the act beingwithin range some general classification, but on complex variables thatare not abstract in nature.In sum, a *prima facie duty* is a duty that one ought to perform *ceterisparibus’*’ i.e. other things being equal. Meaning in essence, that unlessthere is some reason for being pessimistic about an obligation beingvoided by one party then the obligation holds and the other party isunder obligation to fulfill his own obligation.

**Analysing Public/Basic Goods**

The essential attributes of a state as a contracted humanorganisation/institution is its provision of public goods. These publicgoods are fundamental benefits to the citizens such as national defence,good roads, health programmes, law and order which a state provides. Inother words, if a state fulfils its obligation in the provision of thesegoods then it would have achieved the goals and objectives that areessential to human development and happiness.However, the pertinent question now is if the state is justified in theprovision of public goods?A state rendering/ensuring the provision of these goods is justified basedon the state as a social contract or charter. Thus, given that the stateexists mainly for the welfare of the people, it behooves on governmentas an agency of the state based on the principle of justice to keep part ofthe charter just as is expected of the people. Accordingly, these goods orobjectives should be stated and specified in the constitution with the endpurpose being justice and the realisation of the common good “must beof such quality and character as will evoke an abiding sense ofpatriotism and loyalty from the citizens of the state, and must be such aswill, in their execution, benefit all the citizens substantially and withoutexception (Awolowo, 1981:94). Thus, even though much value has notbeen reposed on the provisions of chapter 11 of the 1999 constitutionbased on the fact that they are neither fundamental nor justifiable in thecourts (at least not directly) if the state fails in the provision of theseessential services, citizens can seek redress in court. However, since it is‘the substantive political manifesto of the whole country’ all theprovisions remain ideals. More over, it is important to state that the nonjustifiabilityof the social objectives of the state not only indirectlymakes a government ineffective but constitutes a shortfall on democraticprinciples. Thus, it is apparently wrong to ‘provide for the justifiabilityof the duties laid on the people towards the state and for the nonjustifiabilityof the (social) obligations which the state owes to thepeople.

**Types of Goods**

The basic socio-economic imperatives or normative social objectives tobe achieved by the state are: primary and secondary.**1) The primary Imperatives of the State**The state is contracted as having the monopoly of unconditionalconstraint hence its ultimate goal is the maintenance of public peace andorder and the provision of security internally and externally. The stateachieves this through the political institutions i.e defence and securityagencies that control the use of force within the territorial setting via lawenforcement and warfare (not of interest here).As regards the former, thevarious units/individuals within a state maintain peace and protection ofeach individual group’s interest against other individuals or groupsthrough the legal system. The assigned functions of the armed forces arealso stipulated in section 217(1) of the 1999 Constitution: namely,(a) Defending Nigeria from external aggression;(b) Maintaining its territorial integrity and securing its bordersfrom violation on land, sea or air;(c) Aiding civil authorities to help keep public order andinternal security when called upon to do so by thePresident, subject to such conditions as may be prescribedby an Act of the National Assembly; and(d) Performing such other functions as may be prescribed byan Act of the National Assembly. The Constitution also insection 218(1) states that that the powers of the President(who is expected to be a civilian elected into office withthe provisions of the same document- however, imperfectit may be) as Commander-in-Chief of the Armed Forces ofthe Federation shall include power to determine what rolesand functions they are expected to perform as thecountry’s armed forces.The essence of ruler ship under due process therefore is indicative of agenerally shared aspiration towards safeguard.**2) The Secondary Imperatives of the State**These are socio-economic in nature. This is specifically contained in theFundamental Objective and Directive Principles State Policy asexpressed in chapter 2 13 and 24, of the 1999 constitution. Theeconomic objectives include *inter alia*:**S.16 (1)(a):** harness the resource of the nation and promote nationalprosperity and an efficient, dynamic and self reliance economy;**S.16 (1)(d):** without prejudice to the right of any person to participate inareas of the economy within the major sector of the economy, protectright of every citizen to engage in any economic activities outside themajor sectors of the economy;**S.16 (2) (d):** that suitable and adequate shelter, suitable and adequatefood, reasonable national minimum living wage, old age care andpensions and unemployment, sick benefits and welfare of the disabledare provided for all citizens.Though the economic/material elements are important, the statetranscends its economism/ materialism to the non-material/spiritualaspects of the aims and objectives of a state which are equallyimportant. These are the:**Social objectives**:**S.17 (2) (a):** every citizen shall have equality of rights, obligations andopportunities before the law;**S.17 (2) (b):** exploitation of human or natural resources in any formwhatsoever for reasons other than the good of the community, shall beprevented;**S.17 (3) (a):** all citizens, without discrimination on any groupwhatsoever, have the opportunity for securing adequate means oflivelihood as well as adequate opportunity to secure suitableemployment;**S.17 (3) (b):** conditions of work are just and human, and that there areadequate 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 citizenshave political rights as well. Moreover, it stems from the principle of*natural justice* which posits that political rights should be respected andtreated as sacred and sacrosanct in other to maintain the unity andintegrity of the state.

**Features of Public Goods**

The fundamental benefits of public goods mentioned above willexpectedly be benefiting all the citizens based on its features. To JohnG. Head there are two defining features of public goods namely: 1. *Indivisibility***:** This feature relates to goods which, by theircharacter, cannot be shared out among their beneficiaries e.gNational defence. In effect, in as much, as the government desiresto defend the country against an attack, then *all* the citizens inthat country are being defended. The defence of the countrycannot be a defence of a section of the country or a section of itspopulation.2. *Non-excludability*. The non-excludability feature means thatcollective goods are such that, if they are available to some of themembers, they *cannot* be denied to others in the group (whetheror not these ‘others’ have cooperated to produce them).Thus, since additional consumption does not diminish the amount (ofdefence) available to others, it would be unwise to excludeanyone. Essentially therefore, in as much as a state is logicallycommitted to providing collective goods for its members giventhe aforementioned features of collective goods, then the issue ofwhether or not an individual member claims these benefits‘voluntarily should not constitute an issue in the context ofinstitutional obedience. This is because obligations (especiallypromissory and contractual obligations) have to be voluntarilyassumed in order to be binding.

**Basic Principles in the Distribution of Basic Goods**

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

Second, social and economic inequalities are to be arranged so that theyare 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 thedistribution of income and wealth and to the design of organisations thatmake use of differences in authority and responsibility and chains ofcommand. Thus, while the distribution of wealth and income need notbe 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 theState and the use of law for the attainment of certain economic andsocial ends. To this end, it has been maintained that the issue of the freeplay of economic forces is no longer accepted by any contemporarydemocracy but the universally accepted right of every citizen to aminimum standard of living as a condition of liberty and human dignityeven though the implementation of this ideal still lags far behind theaspiration (Friedman, 1971).These propositions are very apt in Nigeria given the provision in theNigerian 1999 constitution in chapter 11, section 16(2) which outlinedthe national economic and social objectives, which should guide theaction of the state including their policy thrust towards ensuring: (a) theprovision of a planned and balanced economic development. (b)That thematerial resources of the nation are harnessed and distributed as best aspossible to serve the common good.(c)That the economic system is not operated in such a manner as to permit the concentration of wealth orthe means of production and exchange in the hands of few individuals orgroup.(d)That suitable and adequate shelter, suitable and adequate food,reasonable national minimum wage, old age care and pensions, andunemployment, sick benefits and welfare of the disabled are providedfor all citizens. The provisions presuppose in effect, that the State strivesto organise the society in such a way that the much cherishedfundamental rights and the liberty of the citizen will have a meaning. Inother words, that each person must be entitled to equal opportunities to ashare in the wealth of the nation by way of equal opportunity to education, equal opportunity to political; power, equal opportunity toself fulfillment. But, all could come to naught if socio-economicservices are not well administered or distributed according to theprinciple of justice and equality as is evident in the present situationwhere the rate of impoverishment within families has been eroding overthe last seven years, perpetuating family poverty and furthermarginalising women and children. A predicament that has beenblamed on the economic reform agenda with anchorage on the dictatesof the Washington Consensus: privatization, deregulation andminimising the role of the state.However, beyond the generally acceptable minimum premised on Rawlsdistribution theory divergences still remain. Robert Nozick(1974) bringsto bear John Locke, Herbert Spencer and the laissez faire capitalism inhis argument for the minimal state whose function will be limitedmerely to the punishment of offenders. In other words, those whoviolate rights not to kill, assault, coerce, not to have someone’s propertytaken or destroyed etc. This heralded the development of an ‘*entitlementtheory’* which posits that ‘if each person’s holdings are just, then thetotal set (distribution) of holdings is just as a conception of justice. Thistheory is against the re-distribution of wealth through the Statemachinery, because for instance, the taxation of earning from labour isat par with forced labour.’ By and large Nozick contends that there isnothing like the goods of the society but goods of particular individualswithin the society. Thus, the state has no right to make any redistributionof those goods.From the foregoing, while the economic prosperity (material elements)of citizens as goal is important, the state should transcend its economismor materialism to the non-material/spiritual aspects of the aims andobjectives of a state which are equally important.Since, citizens do not have only social and economic rights, the fourthand final objective of the state is *political* given that citizens havepolitical rights as well. The principle of natural justice implies thatmen’s political rights should be respected and treated as sacred andsacrosanct in other to maintain the unity and integrity of the state. To discharge one of its own solidarity and survival every state mustrecognise, and guarantee to all its citizens the fundamental rights ofman. But restraint can be instituted for the purpose and freedom ofothers in situations of war, emergency, epidemic, or the execution of ajudicial decision.

**Analysing Civil Disobedience**

It was Peter Singer (1973) who argued that “for whatever reasons thereare for obeying the law in any society, there may be stronger reasonsagainst doing so in particular cases”. The obvious implication of this isthat an individual or citizens political obligations are not only notabsolute but closely tied with the related notions of dissent and ofprotest. To this end, citizens or inhabitants of a State can embark on amassive act of civil disobedience aimed at resistance againstgovernment policies/ acts. These protests sometimes are directed, notagainst a law as such but against a policy or a decision of governmentprobably because such decision undercuts basic political rights orviolates 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 acitizen” without which the citizen is less than a man (or woman)”. Heargues further that, “unless a citizen can insist that s/he has a moral rightas a moral being to disagree with his/her government anytime it actsunjustly then his or her moral status is degraded”.It is for this reason that it becomes essential to distinguish between civildisobedience and direct action. Direct action according to Bedau (1961),is a type of political protest in which the dissenter uses his own body asa lever to pry loose the policy of government. The example of a directaction is evidenced in the self-incineration of the Buddhist monk or hishunger strike in protest against some government practice or policy.Civil disobedience is used in most cases in relation to anything fromconstitutional test cases and such forms of protest as non-cooperation,hunger strike, industrial strikes and self-immolation to aiding the escapeof a criminal.Direct action can be likened to direct violence, which, directed againstauthority, 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. In fact, 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.

**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 ones 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 ones action is not a product of individual choice. To this end, ones 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 ones 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 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. 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.

**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 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 lowers 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.

**Analysing 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 Nigerian1999 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 presuppositions 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 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 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 1999Nigerian 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-existing 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. Moreover, 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 citizen’s border on remaking the material conditions so as to usher in a new social order where socioeconomic justice will serve as preconditions in ensuring that fundamental liberties are secured.

**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 apolitical system based on the set of *rights and obligations* which 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 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 offer-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 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 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. **Acquisition of Citizenship**

Citizenship or membership is channelled 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 grandparents 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 grandparents 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 noncitizens. 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 *noncitizens*.

**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.

**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.

**Strains to the Notion of Citizenship**

The implication of the constitutional provision in Chapter 11 of the 1999constitution 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 abinitio: centralised or decentralised, comprising three basic categories as large states, small states, and politically autonomous communities. However, with the advent of colonialism (between 1885 and1960) 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. **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 *indignity* 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. This concept is traceable to the regionalisation of the Nigerian civil service in 1954 instituted in the bid to ‘operationalize’ the *federal character principle.* This principle which succinctly states in Chapter 2,section14(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 on-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.

**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.

**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 the16-1700s.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, and 1989 and in chapter IV (section 33 -46) of the 1999constitution 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 ‘trace dental’, ‘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 righto 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.

**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.

**THEORIES OF RIGHT**

**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. Froma moral point of view, these rights are more fundamental than theexisting 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 Treaties 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.

**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. Claude (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.

**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 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 forester-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.

**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 forth 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-Jacques 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 lay 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 humandignity.This social contract theory has also provided a basis for articulating atheory of limited political obligation or on the exercise of state power.Thus, if the state must enjoy its rights to command the obedience of itscitizens, the rights and sensibilities of these citizens must also berespected. A state which disrespects the rights of its citizens and in theprocess offends their sensibilities by sundry illegitimate conduct andarbitrariness’ risks losing their automatic propensity to obey the state.The third concern to demands for rights is *the fundamental human needfor well being.* The presupposition of this concern is that all have thesame rights to satisfaction of basic material needs being equal in value.This is the basis of the socialist tradition, and in contemporary thinkingon rights and distributive justice. Modern contractarian theories (whichalso draw on the liberal and democratic traditions) elaborate on the lineof thought that cooperation in an orderly community creates aneconomic surplus. The existence of a state thus further claims for adistribution of resources which is such that no-one is left worse off thanthey would be in a situation without cooperation. In other words, itprovides all citizens with the *rights to social and economic welfare.*

**Categories and Contradictions about Rights**

Given that there are various types of rights in the international bill ofhuman rights which vary in character and function there are bound to becontradictions in relation to claims. To resolve this contradiction, thissection will examine the issue based on the following two questions: dothese conflicts actually exist? And which rights should be given prioritywhen a conflict does occur? To proffer solution six categories of rightswill 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 tovote and the right to be voted for.**Social and economic rights:** The rights to at least a minimum of vitalnecessities such as food, shelter and aid.**Cultural or national rights:** include the rights to express one’s ownculture and language, the rights to self determination, protection ofindigenous populations and their environment and the protection ofminorities.**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 isknown as first generation of human rights ascribed to the Frenchphilosophy of enlightenment and French and American human rightsdeclarations from the late 1700s. These rights which are older than othercategories also heralded the social, economic and cultural rights, termedthe “second generation” of human rights often referred to as thesocialistic contribution to international human rights. This is because thelabour movement as well as some religious organisations played acrucial role in its promotion. The difference between the former andlatter is evidenced in the two human rights conventions adopted by theUN in 1966: the international Convention on economic, social andCultural Rights and the International Convention on Civil and PoliticalRights.

A third generation of human rights came to be known as “solidarityright”. These rights as stated in the UN Declaration of 1986 are the rightto 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 majordifference between third generation rights from the first and the secondgeneration is in the specification of the right to a process instead of agiven standard of development.The third generation category of rights has been criticised on thefollowing: how can “development” be characterised as a right? Does ithave a time span which ends once the public good has been accepted?Are the rights to structural conditions necessary for the realization ofone’s social and economic right? The answers to this questions wereaptly addressed by Phillip Alston who argued that “ in as much as it isapt to explain the connection between human rights and structuralfactors vital for their realisation, it may be unnecessary- it may even becounter productive- to formulate structural factors as rights (Cf. Alston1982 and 1984). This is against the background that the right todevelopment is defined as the right ( or duty) of a state, given rise topotential conflicts between individual human right and the right of thestate (the group) to development which will invariably open up for theuse of individuals as means to promote collective development.Individual human rights are used by the individual against the statewhile collective right imply that group, or the state itself, are grantedright of equal force. Accordingly, the inclusion of collective or grouprights among human rights instrument has been criticised on theprobability of undermining human rights as protection against the state.The conflict is based on the conclusion that there are situations wherecollective rights are bound to violate individual rights, that quotasintroduced to secure a minority the right to non-discrimination mayconflict with individual rights to non-discrimination, and that the rightsof minorities to self-determination in some cases will undermine therights of the state to integrity and sovereignty.However, despite the critique, it is agreed that special rights protectionmay be necessary in order to secure the minorities rights with othercitizens.In sum, whether the right to political participation is incompatible withsocial and economic rights borders on understanding of the partiesinvolved.

**Nature of Rights**

There are two natures of rights namely: “negative” and “positive” rights.These natures stemmed from the classical expression in Isaiah Berlin’sessay “Two concepts of liberty” (Berlin, 1969).Negative rights intandem with negative liberty; which means freedom from interferenceserves as a protection against interference of others- primarily the state.These rights apply the first two categories described above: personal andcivil rights. The proponents of negative rights-the right to non-inferencearelibertarian(Libertarianism- an extreme variant of the liberal tradition)scholars such as Hayek (1948; 1967) and Nozick (1974) who haveargued that negative rights are to be given priority- as opposed to thedemocratic tradition, which stresses the right to political participation.Here, personal, civil, and political rights are merged into one singlecategory because there is no shortage of rights hence no need towithdraw right from some people so that others will have them.Positive rights also are more or less like positive liberty which impliesfreedom to act. Practically, these are the rights to participate in politicaldecision making as well as social and economic rights. In contrast,positives rights are defined as rights demanding substantialinterferences. The implication of this is that if rights of some people areto be fulfilled, others must sacrifice their rights. It is paramounttherefore, to know that the dichotomy between “rights that cost and therights that do not cost” is contestable given that negatives rights forinstance would imply social costs for police, legal systems and electoral

institutions. This position is important in the sense that it explains thenotion that the granting of “negative” civil and political rights isincompatible with the fulfillment of “positive” or ‘substantial” socialand economic rights. In the same vein, the fulfillments of positiveindividual rights to food, medical care, shelter and education is hingedon negative rights being encroached upon.It is a *priori* possible to conclude that conflicts will arise, that they arepractically inevitable: obviously, conflicts are experienced betweennegative and positive rights. For positive rights, for instance,participation in the political process may cause decisions that are inconflicts with negative rights to protection against interference. In otherwords, the conflicts of rights have necessitated the discussion on whichrights are the more basic and which one to be given priority whenconflicts occur.

**LIMITATIONS OF RIGHT AND PUBLIC AUTHORITY**

**Defining Public Authority**

Authority is the right to command and be obeyed. However, tospecifically understand what the nature of public authority is, let usbegin with, John Day’s argument that “there is no rationality in obeyingthe commands of authority”.What is implied here is that there is a nexus between authority and theobligation to obey for those who accept it. To accept that the obligationto obey is embedded in the concept of authority implies that a criticalattitude to authority violates the logic of that concept. In effect, whatgoes with authority is an attitude of “willing suspension of disbelief” orinquiry. However, since the nature of authority by its nature foreclosescriticism against it as the basis for determining its operation withinlimits, then there is actually no way of deciding when authority hasexceeded its limits, in a situation where a citizen opposes it. This is asevident in relation to political or public authority which is the height ofthe hierarchy of authorities.Public authority is backed up by coercive power in the sense thataccepting presupposes submitting to coercive power of the state whichcannot be consciously limited. The only limit to power is its inability toachieve what it wants to achieve. To this end, the power component ofpublic authority reinforces its essentially “not limitable” characterbecause of the despotic nature of authority.Public authority therefore can be conceived as ‘the everlastingly goodprinciple of social unity in the pursuit of the common good (YvesSimon). This concept is better understood if approached from theperspective of conflict of rights which is premised on:First, the fundamental human rights which the individual is presumed tohave against society, defined here to include both individuals and thestate or its government. Complementarily too, this rights imposes on thestate and its other citizens the correlative obligation of not interferingwith the citizens enjoyment of those fundamental rights.The second is the states or society’s right of public authority whichplaces the individual under complementary obligation of obedience andcompliance to the political authority of society.

**Can a Limited Public Authority Be Achieved?**

A government of laws is by definition a limited government. In modernWestern political theory, there are suppositions that respect forindividual rights would constitute the basis for the limitation of publicauthority. Accordingly, though the non-western political theory and thesocialist theory and practice agree on the need to limit government,however, on the contrary, they do not accept that security for individualrights should be the basis for limited government. In view of therejection of security of individual rights as a basis for limitinggovernment the pertinent question then is “can limited government beachieved? Obviously, the answer cannot be in the affirmative given thedifficulty which leaders of both the socialist states and non-Westernworld have in exercising political authority with restraint coupled withcases where citizens’ rights are casualties to arbitrariness fromgovernment systems. This is bearing in mind that societies which haveexisted without the practice of rights (especially the practice of its liberalindividualistic variant) were not, because of that, victims of limitedgovernment.Thus, irrespective of the deformations of the absolute monarchies,Western political theory and practice have always upheld the notion oflimited government contrary to non-Western theory which does notdeny the notion of limited government though upholding it has not beena 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 liberalideology?For the first question, given that the government of men is by its natureimperfect and liable to do wrong, it becomes important or justified tolimit government. The premise of this limitation springs from the factthat a limited government is a government of laws (against one of men).In effect, a reason for limiting government then is to prevent it fromdoing wrong or too much wrong which even Plato with all his faith in“philosopher Kings” ended up preferring. However, is it to be supposedthat a limited government is good? Experience has shown to thecontrary that to limit a government does not automatically guarantee itsgoodness. For instance, if we take ability to promote egalitarianism asone measure of governmental goodness, a government which condonesgross inequalities of wealth and income because it is constitutionallybarred from interfering with the right to private property of individualcitizens has quite a problem attaining goodness, at least from the pointof view of social justice.Besides, there is even a good reason to believe that limiting governmentreduces their ability, if the will is there, to foster positive freedom. Iflimiting government does not guarantee goodness in the two sensesindicated 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 philosophywhich is based on possessive individualism is different from power.Importantly, proponents of this liberal individualism, beginning fromMontesquieu, Bentham and Mill define the goodness in terms ofprotection and advancement of the individual’s rights and interests.Also, Locke, for instance, sees the end of all governments to beprotection of life, liberty and property and goes on to require, that agovernment that is destructive of these rights loses its rights to thepeople’s obedience. In accordance to this end of government is theAmerican Declaration of Independence; a document which was heavilyinspired by John Locke. The Declaration of Rights spelled out that theobjective of administration and government is to secure the existence ofthe body politic, to protect it, and to furnish the individuals whocompose it, with the power of enjoying safety and tranquility, theirnatural rights and blessing of life. Whenever these objectives are notobtained, the people have the right to alter the government, and to takemeasures 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 enjoyingand defending life and liberty, of acquiring, possessing and protectingproperty and of pursuing and obtaining safety and happiness*(Article,section 1, Declaration of Rights)*.*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 frominvading the rights and freedoms of individual citizens.

**Individual Rights and Limitations of Public Authority**

Based on this analogy, it appears that permitting individual rights tolimit public authority presupposes that the former is superior to thelatter. But is this the case?To resolve the conflict of whether individual rights are superior topublic authority will be approached from at least three possiblepositions***:***a) **By constructing a hierarchy of rights based on the functionalnecessity of the society:** This is in the sense that the right of publicauthority derives from the principle that there are two separableinterests in a society: called the general will, and the individualinterests, of citizens qua citizens. Thus, while individuals pursuetheir own interests, society has endowed its agent, the government,with the right of public authority to defend and promote the interestof the society given that the whole practice of rights is meaningfulonly within society. In other words, it is public authority acting inauthorisations by the society that creates the condition within whichthe practice of individual rights is achieved in society. It is thereforeevident that the right of public authority as an agency of society issuperior to individual rights which require, as their prior condition,the functioning of society. A hierarchy of rights constructed toresolve the conflict of rights here would place the right of publicauthority above individual rights. And no matter how ‘fundamental’,‘natural’, or ‘inalienable’ the right is, as long as it is the right held byindividuals, it cannot in principle be superior to public authority.This is in accordance with Yves Simon’s definition of publicauthority as ‘…the everlastingly good principle of the social unity inthe pursuit of the common good.b) **The assumption that both the rights of individuals and thestate’s rights of public authority are equal**: This invariably willprecipitate looking for some external standards to rightsconsideration so as to decide which of the two groups of rightsshould prevail. This search for external standards leads us to theprinciples on which rights are founded. Lawrence Howarth hassuggested three such principles- that of utility, equal right tofreedom, and equal shares. The utility principle dwells on whichright carries greater functional utility or consequence for societyor on the contrary, which rights, if enforced, carries morefunctional consequence, if not observed? The answer obviously isimplied in the hierarchy of rights. The question, ‘which rights ifenforced, 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 thosewho are bound by the obligations. This is so because whensociety gives effect to its right of public authority, someindividuals suffer as a result of the obligation. More over, thesociety is a collectivity, and some other individuals as ordinarymembers, should gain because such right could only have beenexercised in the public interest. Also, when individuals exercisetheir private right, again by definition in their interest, theharmful consequences arising from the correlative obligation istwo-fold. First, it falls on the society as a collectivity, and it fallson other members of the society in the capacity as privateindividuals. Because (a) the harmful consequences arising fromthe exercise of public authority are less than those arising fromthe exercise of individual rights, and (b) the functionalconsequences of the former are greater than those of the latter,therefore right of public authority should be upheld againstindividual rights.More importantly, is Hart’s principle of equal rights to freedomwhich explains that because individuals have consented tosociety’s right of public authority, they are under obligation torespect that right even when its exercise conflicts with theirfreedoms. And they cannot even revoke it because it is a contractthey have consented to. The principle of equal share means thatthe right of public authority which is possessed by a collectivity,society’s right in this sense being a summation of individualrights-should have more weight than the individual rights ofcitizens.c) The third approach is to take the problem out of context ofconflict of rights and place it in the context of qualifications ofrights. In this case, individual right is regarded as qualificationson the right of public authority. But can one right be used toqualify another without accepting the implied superiority of theright that is the qualification? To this end, having argued thatthe superiority of the right of public authority, if any right is usedto qualify the other, it should be this superior right. It is importantto note that the qualifications of rights have to be in consonancewith the standards and principles which are external to rights.Obviously, such external standards end up in favour of publicauthority.

 **Public Authority and the Limitations on Individual Right**

Limitation broadly to the Chambers English Dictionary meansboundary: that which may not be passed: restriction, the unspeakableextreme of endurability. However, within the context of this course, it isunderstood as the “balance between the rights of individuals and thelegitimate concerns of the state, which has to take into account that thegeneral good is met through the device of permittedlimitations” (Rosalyn Higgins quoted in United Nations, 1988). This isbecause very few individual rights are absolute. A cogent example ofthis right is the prohibition against torture which in most cases are metedout without the consent of the accused. Specifically, the Nigerian Courtof Appeal defined torture to include “mental harassment as well asphysical brutalisation while inhuman treatment characterises any actwithout feeling for the suffering of others. Degrading treatment wasarticulated as the element of lowering the societal status, character,value or position of a person”. And yet a large number of people areunder torture and inhuman or degrading treatment, and in this regard thelaw is helplessly impotent because of the very social structure of thesociety. It is surely inhuman and degrading too for an able-bodiedindividual willing to work to be a victim of unemployment. Thissituation definitely constitutes torture.Most rights may be qualified; in some situations given that certainconditions are met. Also, a law that prescribes the limitation must be inuse and accessible and of common knowledge to all. The question of thelaw being accessible and known is not only to counter secrecy butjustify that a restriction upon the right is a necessity. This is asevidenced in a restriction being premised on reasons of public order,public health or state security. Consequent upon the above, in situationsof emergency states are permitted to suspend their obligations toguarantee these rights for as long as the emergence lasts. However, it isimportant to note that not all rights can the state derogate fromirrespective of the circumstances. For example, no emergency canjustify torture nor can it explain the disregard a person’s freedom ofthought, conscience and religion.Or better still, explain the limits of the basic civil and political rightsthat exclude the “private” spheres of marriage and family life from

democratic scrutiny. It is clear that there are detailed and contextspecific accounts of a vast array of culturally sanctioned practices thatare classified as violence against women. These practices take place in amultitude of arenas: the household, the community, schools, workplacesand streets. However, for instance, even though the NigerianConstitution prohibits torture, inhuman and degrading treatmentdehumanizing treatment is still meted out particularly to the poor, ruraland uneducated widow. Widow maltreatment includes subjecting themto 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 theproblem of Female Genital Mutilation (FGM) for instance, is stillwidely practised in many communities as a means of controllingwomen’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 theinterpretation of the right to life guaranteed also in the Constitutiontantamount to a threat to life. More over, if the justification is to controlfemale sexuality, it is also discriminatory contrary to the provisions ofthe 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 herfundamental freedom.

**Practice of Rights in the Real World**

The contentions evident from the conceptual analysis that publicauthority can be limited in the practical world by individual rights willbe examined in line with the practice of rights in the real world so as toconfirm or contradict the conceptions alluded to in the conceptual

analysis.While the proponents of individual rights are necessarily not seeking torestrain public authority from interfering with all forms of rights that theindividuals lay claim to, they, however, seek to restrict public authorityfrom interfering with fundamental human rights (natural rights). Thepertinent question therefore is “are there such rights”? That is, ‘theimprescriptible rights possessed by all men whose infringement by thestate strictly entails the forfeiture of that state’s authority that societycomes to a distinct disadvantage by refusing to fulfill its obligations ofrespecting such rights in the practical sense’?In proffering an answer to this, T.H. Green argues that “… a rightagainst society… as a right to act without reference to the needs of goodof society…. is impossibility. Similarly, Carl Friedrich holds the sameview that “the principles that rights, liberties and freedom embody aredependent upon the community that recognises them rather than on theindividuals to whom they apply”. This is plausible contention given thatsocieties such as the ancient Greece and Rome existed without thepractice of rights. The important fact to note is that while these societiesexisted 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 theconvention of the practice of rights.2) That there could be a possibility where there are no rights readilyfundamental to man. This is because the theory of individualfundamental rights even from the West where it originated is acontemporary one. More so, it is a product of the atomisticindividualism which inspired the liberal state in post renaissanceEurope.Also, not all societies that subscribe to individual rights agree thatit limits public authority. This is based on the contention that ifpublic authority is not limited does not imply that it will becomedestructive of individual rights. There are two morals embeddedin this position.1) That the respect for other values imposes some restraint on publicauthority without formal constitutional implications. The twovalues couched in this, are the appeals of morality and publicinterest.2) The implication is that societies differ both in their concept ofindividual rights and attachment to values.On the other hand, is the conception of individual rights which arguesfor the strengthening of public authority. The U.S and the Soviet Unionoffer such contrasting examples. This is in the sense that the Americanpolitical theory is ‘concerned primarily with rendering a governmentadministration powerless in itself’. A powerless governmentadministration is irrelevant to the Soviet where the statesmen strive to‘maintain an effective state organisation that can unite a people whohave never seen themselves as a nation’. The implication of this is that

the Soviet conception or rights seeks the cooperation of public authoritywhile the American conception rejects public authority.It seems from the foregoing that all the Western democratic nations haveon some occasions lifted the constitutional limitations on publicauthority in relation to emergency powers to serve the general welfare ofthe nation. This is always the case in war situations and in situations ofeconomic crisis. The implication of this obviously is that there appearsto be a little difference between limitation of public authority and theupholding of individual rights when it is necessary.

**GOVERNMENT RESPONSIBILITY**

**Understanding What Government/GovernanceConstitutes**

In theorising on where a government stands in relation to thegoverned/citizens political philosophers concluded that a government isa summation of the will of the people, an entity to which all submit tohave their affairs managed on behalf of all. To this end, citizens have aduty to the government and the government in turn has a duty to thecitizens. For these very reason, governance in specific terms, has beendefined as: “(the) system of values, policies and institutions by whichsociety manages economic, political and social affairs throughinteractions 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 toarticulate their interests, mediate their differences and exercise theirlegal rights and obligations. It is the rules, institutions and practices thatset limits and provide incentives for individuals, organisations andfirms. Governance, including its societal, political and economicdimensions, operates at every level of human enterprise, be it thehousehold, village, municipality, nation, region or globe (UNDP,2004).”This definition definitely provides not only the comprehensive socialand political aspects of governance but the technical overview ofspecific indicators of governance, their potential uses and limitations.In line with the above, the purpose of government is emphasised in thesocial and political aspects of governance. The political aspect orresponsibility is “characterised by the continuing responsiveness ofpublic policy to the freely expressed will of the people or thepreferences of its citizens whereby all individuals are to be treated as(political) equals” (Jorgen Elklit, 1994).The criterion of the political equality among citizens (even when it is notachieved globally to a satisfactory degree) presupposes that thegovernment of the Nigerian state in controlling the state resources wouldensure that the citizens are equal in receiving benefits/resources of thestate. In other words, based on the established fact that the elites haveaccess to power and influence over government than the poor citizens“popular control and political equality” (Beetham, 1994:28) implies thatthe leaders are elected regularly and all the citizens have a fairknowledge about the goings on of the activities of the state.Linked to political equality, are the economic responsibilities of a stateor government which are: sound macro-economic management,providing an appropriate institutional and legislative framework for themarket economy, and strengthening human and physical infrastructure.This case is strong in the sense that “no country can make economicprogress without reasonably stable macro-economic conditions. Fiscal,monetary, and exchange rate policies must be used to achieve high levelsavings and investments. Accordingly, given that the private sector iscrucial for stimulating growth and creating employment, the publicsector needs to foster an enabling environment for private enterprise andto reduce poverty(which a recent study of the National Bureau ofStatistics has estimated that about 70million Nigerians are poor i.e twothirdsor half of the country’s citizens live in poverty as a result of anendemic corruption) through the efficient provision of social services forhuman resource development, the installation of basic infrastructure inboth rural and urban areas, and protection of the physical environment.In other words, the above responsibilities of government are emphasisedin the responsiveness (to the needs of the people) which border on theprovision of basic social services like primary health, portable drinkingwater, education especially primary education, provision of socialinfrastructure like housing, schools, construction of roads, ports,telecommunications, electricity, and railway. The government is alsoexpected 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 beaccountability in government about tax revenue expenditure. Citizensexpect to enjoy a lot of benefits or services and allowances because ofrevenue generated from their duty in paying taxes, royalties and other.This explains why broad components which include transparency ingovernment, access to information and the accountability of both publicand private sectors to the public through mechanisms such as a freepress and freedom of expression and efficiency and effectiveness inrelation to public sector revenue and expenditure policies, in publicadministration in relation to public sector revenue and expenditurepolicies embedded in the rule of law should feature strongly in theinstitutions.However, irrespective of the emphasis on the social and political aspectsof governance, current development goals prioritise of particular interestdemocracy and human rights, eradication of poverty and progresstowards gender equality.

Expectedly, given the existence of conflicting interests, for governmentto respond to all the interests of every group in the society, a responsivestate requires the responsiveness of elected officials to the needs andconcerns of society. In effect, there must be access to legislativecommittees and local constituencies which must have channels ofcommunications to different ministries. There should also be regularmeans by which elected representatives will consult their constituenciesso as to bring government to the grassroots. In effect, if there isparticipation in policy making, strong freedom and competition, thengovernment would be said to be more responsive.Most importantly, governance or good governance is essentiallydemand-driven: other things being equal, the governed will get thequality of governance that they demand. Governance will be democratic,responsive to the needs and interests of the governed, honest, transparentand accountable if, and only if, citizens from all significant socialgroups demand that it be so.

**Institutions of Governance**

The institutions of governance are: the legislature, the executive, thejudiciary, the bureaucracy (civil service) and the armed forces.(a) **The Legislature:** This institution (the Senate and House ofRepresentatives) which is saddled with law making is the coredeterminant of the character of the state. However, this institutionhas created credibility problems for the Nigerian state becausemost members of national assembly are people who participatedin varying degrees with military regimes (especially theBabangida and Abacha dictatorships). Expectedly, the element ofparochialism is glaringly in the ineptitude and slow pace of lawmakingbeing displayed as the hallmarks at the national and statelegislatures leading to impeachment of leadership of many ofthem. This scenario obviously will make the citizens skeptical oftheir making credible laws.**(b) The Executive**The executive, though now under civil government, is stillimbued with the tarnished image of military rule. Hence, theobvious lack of preparedness to tackle pressing national issueslike improvement in the epileptic power supply, building ofrefineries to serve the needs of the citizens, improving the state ofschools, addressing police intimidation etc. Thus, despite the pastadministration’s popular measures in the recovery of lootedwealth, the establishment of tribunals, to investigate human rightsabuses, the removal of potential coup makers from the armedforces, and policy pronouncements on UBE and povertyalleviation measures, fallouts from the administrations disregardfor due process, corruption and high-handedness etc. have castblight on the moral reputation of the executive. The pastcontroversies arising from non-performance bugs down anyexpectation that Nigerians may have for the present executive’sability to grapple with the delivery of public goods especially asthere appears to be an absence of a concrete plan and obviouslack of preparedness by president UmaruYar’Adua’sadministration. With this visionless remedy for Nigeria’s ailingsituation, there will definitely be lest zest for loyalty on the partof citizens. This is because Nigeria is a country that has aleadership style, where there is not only absence of disciple andleadership focus but one where despite the rising oil prices the

living standards are depreciating with no meaningful action thatwill affect the lives of ordinary citizenry in the pipeline.**(a) The Judiciary**It is the last arbiter for the resolution of disputes in the inevitableconfrontation between the state and citizens, between different tiers ofgovernment and between all manners of actors. However, given the pastdecades under the military, the character of the judges became distortedgiven that they cannot be insulated from the character of those whoappointed them. The dependence of the judiciary obviously resulted incases of perverted justice and assaults as evidenced in the refusal toobey judicial orders; removal and demotion or non-promotion of judicialofficers and the exorbitant cost of justice which is beyond the averageNigerian both in time and money.With the democratic dispensation in 1999, it is expected that confidencewill be restored in the judiciary. However, the timid response to andcomplicity in so many issues such as the political killings of chief BolaIge, Alfred Rewane, Harry Dokubo and , Ogoni activists, Ken Saro-Wiwa and his eight compatriot, Dele Giwa etc. shows the taintedcharacter of the judiciary. In effect, for respect, in practice, of the rule oflaw and due process to be achieved the judiciary would weed out corruptand inept judges and magistrates. Secondly, there should be practicaladherence to the provisions of the 1999 Constitution that seeks toguarantee the independence of the judiciary in terms of appointments,dismissals and funding. Thirdly, there should be decongestion of thecourts and litigation within the reach of the average Nigerian.**(b) The Civil Society**The function of the civil service is delivery of government service giventhat it is the link between the executive and society in theimplementation of public policies and programmes. But as the onlyinstitution which is permanent between democratic governance andmilitary dictatorship the civil service unlike in the colonial order when itwas committed to servicing law and order and extractiveoperations/impacting meaningfully on the public policy process hasbecome content with performing in a largely unprofessional mannermere clerical roles. This explains the non-performance of the variousgovernment agencies. Hence, the need to organise and decentralise itespecially as it has been adjudged the harbinger of corruption given itsover bloated nature. To however, reorient the bureaucracy, the followingare important: the institution of merit should be promoted andentrenched; there should be regular training as well as adequate rewardpackage and punishment for defaulters to checkmate corruption. Butmost importantly, unless as stakeholders, work ethics embedded in theservice delivery scheme popularly known as SERVICOM inauguratedby the Federal Government on June 9, 2005 to revive the degeneratestate of service delivery in the nation’s public service are embraced,government through the civil service will always fail in the provision ofthe responsibilities. The aim of the scheme is to improve servicedelivery to people through hard work, accountability and diligence.SERVICOM has as its core values, complete dedication of workers tothe provision of basic services for Nigerians in a timely, fair, honest andtransparent manner.**(a) The Security Apparatus**This coercive apparatus responsible for public security is of criticalimportance to the executive arm of the government. The components ofthis apparatus are the police and the various security outfits, notably theState Security Services (SSS) and its variants. For many Nigerians, theseapparati that should protect them are still largely colonial and stillbelieve they are above every other citizen and can terrorise everyone.The police and other security outfits further imbibed the dealings inbrutality of dictators especially during the spate of military incursioninto governance as evidenced in the brutalisation of citizens, parcelbombing of News watch journalist, Dele Giwa, the assassination of elderstatesmen like Alfred Rewane, Chief Bola Ige, Harry Dokubo, MrsKudiratAbiola and a host of others. In fact, the whole concept ofprotecting those in authority against the populace still looms in themodus operandi of the security forces and their personnel so much sothat the value these agents put on the uniform that is supposed to be asymbol of pride and reminder of the oath the wearer carries and theresponsibility that goes with it, is that of brutality.To a wide spectrum of Nigerians, the challenge for re-orientationborders on reform. This is in relation to bringing other security actorsapart from the police, army such as the judiciary saddled withadjudication, the legislature and the civil organizations charged withoversight responsibilities to be involved in the reform strategies in orderto re-educate, re-orient and re-professionalise the armed security andpara-military forces to serve the ends of the citizens.Also, systemic reforms’ considerable progress can be achieved throughthe important and often overlooked actor which is the civil society,which commonly includes non-governmental organisations, academicinstitutions, policy ‘think-tanks’. These organisations contribute to theprocesses of developing enabling policies to evolve with the support ofthe civilian population- support that incrementally increases publicconfidence in the security forces and helps build an environment ofgood governance.**(b) Political Parties**Political parties in Nigeria are regarded as mere association ofpersonalities who organise to get themselves or friends elected intooffices for the sole purpose of engaging in accumulation and selfaggrandisement.In other words, the largely undemocratic manner whichthey are constituted creates a dearth in the organic linkage with thecitizenry. This explains government’s inability to truly aggregate andarticulate the interests of the citizens. It is therefore advocated that allrestrictions on the formation of political parties should be downplayedas a way of loosening the stranglehold of oligarchic caucuses within theexisting party hierarchies.

**Understanding Patriotism/ Loyalty**

Broadly, patriotism means love of one’s own country and willingness todefend it. But the most informed opinion within Nigeria on patriotism isthat by the Report of Nigeria’s Constitutional Drafting Committee(CDC), which met between 1975 and 1976, and posited that “the stateshall foster a feeling of belonging and of involvement among the varioussections of the country to the end that loyalty to the nation shall overridesectional loyalties.”(CDC, 1979). The report also contended that as ageneral rule, every Nigerian owes or is expected to owe some loyalty tohis/her community and/or sub-community but with the paradox thatloyalty to one’s community ought not to be allowed to inhibit or detractfrom national loyalty, that is to say, loyalty to the Nigerian state.Loyalty as the quality of being true or faithful or having a strong feelingin ones support of his/her country that is dependent on the claims tonationhood is however, challenged by ethnic nationalism which clearlyis the struggle between individuals seeking to monopolise state poweron behalf of particular sub-national communities. This divided loyalty totwo different and possibly conflicting causes, people which invariablyconstitute conflicting “loyalties”, border on integration.Parsons and Shils define integration as the process by which relations ofa system to the environment are mediated in such a way that itsdistinctive internal properties and boundaries are maintained in the faceof variability in the external situation. According to the structuralapproach, a society is said to be integrated to the extent to which theparts interact and complement one another. If a unit is capable of beingdetached without feeling the whole, then the system is essentially, ‘unintegrated’.But if the system can collapse or become seriouslydestabilised when some parts are detached, then there is integration.Those who ignore this essential element in nation-building reap politicalinstability. This is because according to Ake the “problem of politicalintegration is a shorthand for two related problems: “How to elicit fromsubjects deference and devotion to the claims of the state and how toincrease normative consensus governing political behaviour amongmembers of the political system”. To therefore guage the degree ofpolitical integration sequel to the above problems Ake further examinedseven various indicators of which Nigeria experienced a shortfall. Theseare:**The Legitimacy Score:** The level of integration of a historical politicalsystem is linked to the extent to which the citizens of the state identifywith the state as an embodiment of their interest and therefore concedethat it deserves their loyalty and authority to exercise certain powersover them.**Extra –Constitutional Behaviour Yardstick**: The yardstick here isexamining the ‘frequency distribution of the preferences of politicalactor between constitutional and extra- constitutional actions. The extraconstitutionalmeasures include arbitrary arrest of political opponents,the use of terrorism to overthrow duly elected governments whichreflect the lack of basic consensus about the ground rules of politicalcompetition.**Political Violence Score:** To what extent is violence resorted to inachieving political goals? The frequent resort to this indicator revealsthat the development of a normative culture is ambivalent or in theembryotic stage.**The Secessionist Demand Score:** Secessionism means an absence orwithdrawal of commitment for the existing political system by membersof the secessionist group and the numerical strength can be regarded asan indicator of the degree to which the political system is integrated.**Alignment Pattern Score**: This is to the extent to which the majorgroups (political parties) competing for control of the governmentapparatus draw their support from the various geographical areas andfrom the ethnic, religious, social and economic group within the society.**Bureaucratic Ethos Score**: The issue here is if the political system ishighly integrated there will be a tendency for its members to give theirloyalty to the state and the constitutionality elected holders of highoffices inspite of their personal feelings about the holders of theseoffices.**Authority Score**: This links authority with the legitimate use ofcoercion to induce compliance given that the authority of the state is afunction of its legitimacy score and its effectiveness for carrying out itsconstitutionally prescribed duties. The high incidence of breakdown oflaw and order in parts of the political system is indicative of a low levelof integration. This feature which explains the spate of militaryincursion in politics paradoxically has been responsible for keepingNigeria one.Accordingly too, Isiagwu (Atanda, 1985) sees political integration asseries of challenges of political development and explained as:1. The challenge of authority or state-building: This borders on theproblem of the political centre ‘penetrating’ or controlling’ so asto make its presence felt as well as maximise its authority.

2. The challenge of the united (nation-building): This explains thedifficulty of creating unity among the heterogeneous groups inthe state and in a multinational state like Nigeria that entailsintegrating the various groups in order to build a nation out of thestate.3. The challenge of participation: This challenge highlights theextent to which people influence decisions that affect their lives.4. The challenge of distribution: This emphasises the ability of asystem to distribute scare but allocatable resources equitablyamong the various groups in a state.The bane of the arguments on integration especially those of Ake andElaigwu border on the arguments that political integration is crucial tothe nation-building process. In effect, attaining true Nigeriannationalism is dependent on integration among the various ethnic groupsin order to resolve questions which border on the effects and influenceof culture on personality traits, social institutions, and collectivehistorical experiences among other issues. To therefore engendernationalism that centres the supreme loyalty of the overwhelmingmajority of Nigerians upon the Nigerian nation-state and not upon thesub-groups is dependent on the development of a Nigerianconsciousness premised on the existence of high quality integrationwhere people want to be affected by others in the same way that they areaffected themselves.In other words, the dealing with the allocation of resources and howreadily people accept a given allocation system in a political system is a

measure of integration. Attaining this integration in a state is by nomeans 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 whereit is possible for one class/ethnic group to exploit another or others andthus cause alienation in the system. Guarding against it is essential in thesense that it not only degrades loyalty in that it encourages dangerousestrangement of the political leadership, but, above all, and moreinterestingly, inevitably leads to national dislocation, disorientation, andloss of confidence confronts the idea of Nigerian nation-hood andnational identity. The reason for this amazing paradox lies in theNigerian people’s failure to define what it is they want from themselvesor expect from the leaders as a nation. For patriotism to take root,Nigerians must resolve in their minds as individuals and groups, whatthe political character of Nigerian state should be one of which isacquiring a genuine nationalist political culture in which public interesttranscends all sectional, sectarian or private interest by a nationalisticestablishment.

**Why the Dearth for Patriotism/Loyalty**

In studying the problem of loyalty in the Nigerian situation we shallproceed to examine the issues involved. As is clear from the above, it isnecessary to address the evolution and structure (as it is important thatwe know the background of the root causes of our problems), dynamicsand controversies in patriotism.

**The Evolution**

Nigeria is a complex country with problems that date as far back as1884 even before the coming of Lord Lugard in 1894. The implicationof this is that as far back as 1914 Nigerians confirm that the image of thestate has been in tatters and its legitimacy undermined given theintrigues and politics of fraud involved in the evolution or rather what istermed the amalgamation of Nigeria.Literature has it that the interest of the Europeans in Africa and indeedNigeria was and still is economic. In effect, Nigeria was created as aBritish sphere of interest for business. The implication is that Lugard (atthat time an imperialist) came to Nigeria with British interest as apurpose evidenced in the number of dispatches by Lugard between 1898and 1914 to London which led to the Amalgamation of 1914.Specifically, the Order-in- Council which was drawn up in November1913 signed and came into force in January 1914 in which a number ofthings, which are at the root of Nigeria’s problems were said. Literaturehas it that the British needed the railway from the North to the Coast inthe interest of British business. To this end, amalgamation of the South(not of the people) became of crucial importance to British businessinterest. It is also documented that according to Lugard, the North andthe South should be amalgamated so, when Benin was conquered in1896, it made the creation of the Southern Nigerian protectorate possibleon January 1,1900. It should be noted Sokoto was not conquered until1903-a conquest that made it possible for Lugard to go full blast tocreate the northern Nigerian protectorate. It is pertinent to note that therewas no question of Nigeria at that time.What is critical and important are the reasons Lugard gave in hisdispatches. They are as follows: that the protectorate of the North ispoor; hence, could not generate the resources to run it especially as ithad no access to the sea while the South has resources and educatedpeople. Therefore, because it was not the policy of the BritishGovernment to bring the tax-payers money to run the protectorate, itwas in the interest of the British business and the British tax payers thatthere should be amalgamation. But what the British Amalgamated wasthe administration of the North and South, an act that subsequentlybecame one of the causes of the problems of Nigeria and Nigerians.When the Amalgamation took effect, the British government sealed offthe South from the North. Hence, between 1914 and 1960, specifically aperiod of 46 years, the British allowed minimum contact between theNorth and South given that it was not in the British interest that theNorth be allowed to be polluted by the South. This explains the basis ofNigeria independence in 1960. It should be noted that the North formeda political party, the Northern leaders called it Northern (and notNigeria) Peoples Congress(NPC) in accordance with the dictum andpolicies of Lugard. A strand that was repeated when Aminu Kanoformed his party and called it the Northern Elements ProgressiveUnion(NEPU) not Nigerian Progressive Union showing their sectionalbent unlike Zik and Awolowo who believed more in Nigeria.In the light of the above exposition, it would be saying the obvious thatthe 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 ofNigeria or Nigerians but of the British. Second, the manner in which thestructures were created was such that Northern would Nigeria representEngland given that in British structure, England has permanent majority

in the House of Commons. Western Nigeria represented Wales that cannever dominate England and Eastern Nigeria was to be like Scotlandthat can neither dominate Britain. Thus, the actual power rested inEngland- the replica of what Lugard created in Nigeria, a permanentmajority for the North.Nigeria’s political/structural evolution explains to a large extent thedilemma which today is beginning to dawn on Nigerians.Other issues that further jeopardised the fragile foundation of Nigeria aswell as any underlying sentiment of unanimity and cohesion come tobear in three most contentious issues linked to the dynamics andcontroversies of citizen- state relations disconnect. These are: the actualsize of the population and its special distribution, the desirable numberand size of the constituent states of federation and most equitablerevenue allocation system.

**Size and Population**

Nigeria’s greatest potential is accentuated by its size-an area of 356,700square miles(Obizor,1994:5) and population currently estimatedbetween 120 and 140 million given that there has been controversiesover the reliable figure in the past census exercises. Expectedly,population is a power potential. However, ironically this largepopulation presupposes large problems as regards the unity that haseluded the entity since 1966. Essentially, in a pluralist society likeNigeria, this large population constitutes problems as far as unitybetween the country’s constituent parts are concerned particularly withthe present cycle of controversies being experienced in the ceding ofBakassi Peninsula to Cameroon.

**The Issue of Revenue Allocation**

The term depicts the financial relationship between the federal and thestate. In other words, it involves the distribution of fiscal powers underthe Federal system. The problem of revenue allocation dates back to theamalgamation of the Northern and Southern Protectorates in 1914 whereeach successive government tried to solve the constant conflict over theissue of the control and sharing of revenue resources so that it would befair to all people irrespective of their places of birth or residence. To thisend, the principles such as derivation, fiscal autonomy and need wereprincipally the criteria during the colonial period. In the postindependence period, allocation criteria were: continuity of existinglevels of services, basic responsibility of each regional government,population, balanced development and derivation. The military eracharacterised by a high level of corruption, however, distorted theseprinciples so much so that during the era, the principle of derivationsuffered a set back. This culminated in the dearth development in theoil-producing areas. It is important to note that the provisions in the1979 Constitution on revenue allocation also incorporated in Ss162-168 of the 1999 Constitution recommends the sharing of revenueresources through distributable pool account. Section 162 provides forcommon pool of financial resources (federation account) to bedistributed among the Federal and State Governments as well as theLocal Government Councils in each state on terms prescribed by theNational Assembly. Section 162 however, pacifies the oil-producing

areas agitating against Federal Government owning a lion share of themineral revenues. The allocation of 13% to the states of originresuscitates the principle of derivation. This principle is based onpopulation and responsibility and balanced development. However, thisprinciple in terms of adequacy or inadequacy is still controversial basedon whether the 13 or 25% which the constitutional conference agreed onoil revenue to the producing states be adequate to deal withenvironmental degradation. But to date, since it is the NationalAssembly that will deliberate on the terms and conditions for grants tobe made through policies it seems an increase in percentage will be amirage. Expectedly, for this very reason, there is bound to be pessimismwith any claim to loyalty/patriotism.

**Ethnicity**

The problem of emphasising ethnic symbols and boundaries in thestruggle for wealth and power connects with the most pressing questionsregarding the citizen-state relations in Nigeria and indeed Africa. Thisfactor is deeply embedded in conflicting ideological framework of theNigerian state so much so that ‘primordial’ attitudes inevitablydetermine loyalty to the state and citizen relations. Ethnicity, isfundamentally a political phenomenon in which ‘primordial’ sentimentsare superimposed over fundamental and objective interests of citizens asa motivating force in the intensive struggle between groups for supportfrom their better-placed kinfolk in the pursuit of the basic economic andpolitical goods such as are the licenses, scholarships and contracts or tocapture places of employment, taxation, funds for development,education, political positions which represent the most visiblemilestones of success and survival.Sequel to the above, are mutually reinforcing notions of clientelism,prebendalism, patronage system, patron-client clusters which constituteaspects of a general phenomenon just as ethnicity which comes to bearin the pursuit of state office and material benefits basic social andmaterial goods-loans, scholarships, licenses, plots of urban land,employment, promotion, ministerial appointments. Prebendalismprimarily is a function of the competition for and appropriation of, theoffices of the state for the benefit of individual occupants and theirsupport groups while clientelism defines the nature of individual andgroup relations within the wider socio-political sphere. In sum, thesephenomena have become dominant patterns of political behaviour inNigeria in terms of the incessant pressures on the state and theconsequent intensive and persistent struggle to control and exploit the“offices”.

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