CONSTITUTIONAL LAW OF NIGERIA

A Teaching Version — Prof Samba Online University of Nigeria

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IMPRINT

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How to use this book: read a chapter, work the example, answer the discussion questions in writing, then read the summary again before you move on. Law is learned by working, not by looking.

Chapter 1 — What a Constitution Is

A constitution is the higher law of a state: the written settlement that creates the organs of government, divides power among them, and sets the limits none of them may cross. This chapter begins the student's journey at the foundation — what a constitution is, why it stands above ordinary law, and how it is read.

The idea of constitutionalism

Constitutionalism means government under law. A state has a constitution in the thin sense whenever it has rules that organise power; it has constitutionalism when those rules truly bind the powerful. The difference matters: paper promises are cheap, and the student's first discipline is to ask, of every constitutional statement, what institution enforces it and what happens when it is disobeyed.

Nigeria's constitutional tradition is written and codified: one document stands at the head of the legal order, and other laws are measured against it. A written constitution gives citizens a text to point to, gives courts a standard to apply, and gives every public officer a boundary written in advance, before the temptation of the moment arrives.

Supremacy of the constitution

The supremacy principle holds that the constitution is the supreme law, and any other law inconsistent with it is void to the extent of the inconsistency. Supremacy is not a compliment paid to a document; it is a working rule of decision. When a statute and the constitution collide, the court does not weigh which it prefers — the constitution prevails, because the people's constituent power outranks the legislature's ordinary power.

Supremacy also binds the constitution's own creatures. The legislature, the executive, and the courts all draw their authority from the constitution, and none may use that authority to destroy the source of it. An act beyond the power granted is ultra vires — beyond power — and the courts say so, whoever asks them to.

Written and unwritten elements

Even a written constitution rests partly on unwritten practice: conventions of how power is exercised, understandings between institutions, and the habits of constitutional actors. The student should distinguish the text, which courts enforce, from convention, which politics enforces. Both are real, but they fail differently: breach of the text brings a judgment; breach of convention brings a crisis.

Alongside the document stand the constitutional statutes and the case law that gives the text its working meaning. A constitution is therefore read as a living body of law: the text first, then the interpretations that have settled its meaning, then the principles that run beneath both.

How this book proceeds

The chapters that follow take the structure in order: the organs of government, the federal division of power, the legislature, the executive, the judiciary, fundamental rights, amendment, and the constitution in daily practice. Each chapter teaches principles in general words. The student who masters the principles can then read the text itself with understanding, which is the proper order: principles first, then the document, then the cases.

Worked example

A ministry issues a directive that conflicts with a clear constitutional provision on who may appoint a class of officers. A citizen challenges

it. The court's task is not to ask whether the directive is wise, but whether the constitution gave the ministry the power it exercised. If it did not, the directive falls — supremacy at work in an ordinary week.

Discussion questions

• What is the difference between having a constitution and having constitutionalism?

• Why must the constitution bind the very institutions it creates?

• What work do conventions do in a written constitutional order?

Chapter summary

In this chapter you have studied the following ground. A constitution is the higher law of a state: the written settlement that creates the organs of government, divides power among them, and sets the limits none of them may cross. On the idea of constitutionalism: Constitutionalism means government under law. On supremacy of the constitution: The supremacy principle holds that the constitution is the supreme law, and any other law inconsistent with it is void to the extent of the inconsistency. On written and unwritten elements: Even a written constitution rests partly on unwritten practice: conventions of how power is exercised, understandings between institutions, and the habits of constitutional actors. On how this book proceeds: The chapters that follow take the structure in order: the organs of government, the federal division of power, the legislature, the executive, the judiciary, fundamental rights, amendment, and the constitution in daily practice. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 2 — The Organs of Government

Power in a constitutional state is divided among three organs — legislature, executive, and judiciary — not because division is tidy, but because concentration is dangerous. This chapter teaches the separation of powers and the checks by which each organ restrains the others.

The separation of powers

The doctrine assigns law-making to the legislature, law-execution to the executive, and law-interpretation to the judiciary. Its classical point is liberty: the same hands that make a law should not execute it against an enemy, and neither should judge the dispute. Separation is therefore a protection for the citizen before it is an arrangement for the state.

No working constitution separates the organs completely, and none should. The organs overlap at the edges — the executive proposes laws, the legislature oversees spending, the judiciary makes law in the interstices of interpretation. The doctrine's real demand is not hermetic separation but the absence of domination: no organ may swallow another's core function.

Checks and balances

Checks are the constitution's friction. The legislature checks the executive through questions, committees, appropriations, and impeachment. The executive checks the legislature through assent and veto. The judiciary checks both through review of legality. Each check is a lawful irritation, designed so that power must explain itself before it acts.

The student should learn to spot a check's purpose: it is rarely efficiency. Constitutional design accepts slowness as the price of safety. When a reform promises to remove friction, the constitutional

question is always: what abuse did this friction exist to prevent, and what will prevent it now?

The legislature

The legislature is the people's law-making organ, organised in Nigeria at the federal level in two chambers and in the states in one. Its authority is to make laws for peace, order, and good government within the fields the constitution assigns. Its proceedings are governed by standing orders, and its powers include the great inquests of public life: summoning, investigating, and reporting.

Legislative power is broad but not unlimited. A legislature may not legislate outside its assigned fields, may not oust the courts' constitutional jurisdiction, and may not enact what the constitution forbids. Its enactments are statutes, and statutes live under the constitution, not beside it.

The executive and the judiciary

The executive — president, governors, ministers, and the public service — carries the laws into effect and conducts the administration of the state. Its powers are great and its temptations likewise, which is why executive action is the most frequent subject of judicial review: every executive act must trace its authority to the constitution or a statute.

The judiciary interprets the law and decides disputes, insulated by tenure and salary protections so that judgment need not please power. Judicial independence is not a privilege of judges; it is the citizen's guarantee that the constitution's limits will be enforced against the strong as readily as against the weak.

Worked example

A governor purports to dissolve a state legislature by proclamation. Whatever the political merits, the constitutional analysis is structural: dissolution, if it exists at all, must be found in the constitution's own provisions and conditions. A power not granted is a power not held, and the court reads the grant strictly where the act strikes at another organ's existence.

Discussion questions

• Why does constitutional design accept slowness as a price?

• Give two checks each organ holds over another.

• What does judicial independence protect, and whom does it protect?

Chapter summary

In this chapter you have studied the following ground. Power in a constitutional state is divided among three organs — legislature, executive, and judiciary — not because division is tidy, but because concentration is dangerous. On the separation of powers: The doctrine assigns law-making to the legislature, law-execution to the executive, and law-interpretation to the judiciary. On checks and balances: Checks are the constitution's friction. The legislature checks the executive through questions, committees, appropriations, and impeachment. The executive checks the legislature through assent and veto. The judiciary checks both through review of legality. Each check is a lawful irritation, designed so that power must explain itself before it acts. On the legislature: The legislature is the people's law-making organ, organised in Nigeria at the federal level in two chambers and in the states in one. On the executive and the judiciary: The executive — president, governors, ministers, and the public service — carries the laws into effect and conducts the administration of the state. Work the

discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 3 — Federalism and the Division of Power

Nigeria is a federation: power is divided between the federation and the states, each sovereign within its sphere. This chapter teaches the legislative lists, the doctrine of covering the field, and how conflicts between federal and state laws are resolved.

Why federations divide power

A federation answers two needs at once: unity for the purposes that require it — defence, currency, foreign affairs — and diversity for the purposes that local knowledge serves better. The division is not administrative convenience; it is constitutional settlement, alterable only by constitutional amendment, not by either level's ordinary legislation.

The student should hold the map firmly: some subjects belong exclusively to the federation, some are shared, and the residue belongs to the states. Every legislative dispute in a federation begins with the same question — under which head of power does this law fall?

The legislative lists

The exclusive list names the federation's sole fields; the concurrent list names fields where both levels may legislate. On concurrent subjects, a valid federal law prevails over an inconsistent state law — the doctrine often expressed by saying the federal law covers the field. On residual subjects, the states legislate alone, and a federal law there is simply beyond power.

Classification is an exercise in substance. Courts ask what a law is truly about — its pith and substance — rather than what its title claims.

A law dressed as one subject but working as another is classified by its work, and incidental effects on another level's field do not condemn a law that is, in substance, within its maker's power.

Conflicts and their resolution

Where two valid laws can both be obeyed, both stand. Where obedience to one is disobedience to the other, the hierarchy decides: on concurrent ground the federal law prevails to the extent of the inconsistency; on exclusive ground the intruder fails entirely. The court's craft is to read laws, where honestly possible, so that both may live.

Fiscal federalism — who taxes, who collects, who shares — is the division of power in its most contested form. The principles are the same as elsewhere: find the constitutional grant, read it as written, and let neither level enlarge itself by practice, however long the practice has run.

States and local government

Below the states stand local governments, the third tier, closest to daily life. Their constitutional position is derivative: they exist under state law within the constitution's frame, and disputes about their autonomy are disputes about what that frame truly guarantees. The student should treat local government as federalism's ground floor — where the division of power meets the citizen's street.

Worked example

A state enacts a law regulating a subject on the exclusive federal list, arguing that local conditions require it. Local need, however genuine, cannot manufacture competence. The law is beyond the state's power and void; the remedy for a bad allocation of power is constitutional

amendment, not legislative self-help.

Discussion questions

• What is the difference between the exclusive, concurrent, and residual fields?

• Explain 'pith and substance' in your own words.

• Why can long practice not enlarge a legislature's constitutional power?

Chapter summary

In this chapter you have studied the following ground. Nigeria is a federation: power is divided between the federation and the states, each sovereign within its sphere. On why federations divide power: A federation answers two needs at once: unity for the purposes that require it — defence, currency, foreign affairs — and diversity for the purposes that local knowledge serves better. On the legislative lists: The exclusive list names the federation's sole fields; the concurrent list names fields where both levels may legislate. On conflicts and their resolution: Where two valid laws can both be obeyed, both stand. On states and local government: Below the states stand local governments, the third tier, closest to daily life. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 4 — Fundamental Rights

The constitution guarantees a chapter of fundamental rights — life, dignity, liberty, fair hearing, expression, association, and more. This chapter teaches what rights are, against whom they run, how they may lawfully be limited, and how a citizen enforces them.

The nature of rights

A fundamental right is a claim the constitution itself guarantees, enforceable in court by a fast and direct procedure. Rights bind the state first of all: they are shields against public power. Some also shape relations between private persons, through the ordinary law the courts apply in rights' light.

Rights are not licences to harm others. Almost every right carries its lawful limits: the rights of others, public order, public health, and the running of a democratic society. The student's task is always two questions — is the right engaged, and if the state has limited it, is the limitation one the constitution permits?

The principal rights in outline

The right to life protects against unlawful deprivation of life, with narrow stated exceptions. Dignity forbids torture and inhuman treatment absolutely. Liberty protects the person against arrest and detention outside lawful grounds and requires prompt production before a court. Fair hearing guarantees an independent tribunal, a reasonable time, and the presumption of innocence in criminal trials.

Expression, association, assembly, movement, and non-discrimination complete the working set the student meets daily. Each has generated a body of case law; the principles chapter teaches the frame — the case law, read afterwards, fills it.

Limitation and derogation

A limitation is lawful when it is imposed by law, pursues a permitted aim, and goes no further than the aim reasonably requires. In emergencies, wider derogations may be permitted under strict constitutional conditions — proclaimed, time-bound, and supervised. The emergency is the constitution's hardest hour, and its rules are written for exactly that hour.

The burden of justification rests on the state. A citizen need not prove a limitation unjustified; the authority that limits must show its warrant. This allocation of burden is the practical meaning of calling the rights fundamental.

Enforcement

Any person who alleges that a fundamental right has been, is being, or is likely to be contravened may apply to a high court for redress. The procedure is deliberately simple and swift, because a right vindicated after years is half a right. Standing is generous: the victim applies, and the courts have widened who may speak for those who cannot speak for themselves.

Remedies include declarations, injunctions, and compensation. The declaration is often the deepest remedy: a public statement by a court that power has crossed its line, which instructs every officer who reads it.

Worked example

Police hold a suspect for nine days without charge or court appearance, citing the seriousness of the allegation. Seriousness is not a constitutional ground for extended detention. The liberty right requires prompt production before a court; the detention beyond the permitted

period is unlawful, and the court orders release and may award compensation.

Discussion questions

• Against whom do fundamental rights primarily run?

• State the test a lawful limitation must pass.

• Why does enforcement procedure for rights need to be swift?

Chapter summary

In this chapter you have studied the following ground. The constitution guarantees a chapter of fundamental rights — life, dignity, liberty, fair hearing, expression, association, and more. On the nature of rights: A fundamental right is a claim the constitution itself guarantees, enforceable in court by a fast and direct procedure. On the principal rights in outline: The right to life protects against unlawful deprivation of life, with narrow stated exceptions. On limitation and derogation: A limitation is lawful when it is imposed by law, pursues a permitted aim, and goes no further than the aim reasonably requires. On enforcement: Any person who alleges that a fundamental right has been, is being, or is likely to be contravened may apply to a high court for redress. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 5 — The Legislature in Practice

Statutes are the legislature's product, and statutory life has a rhythm: introduction, readings, committee work, passage, assent, and commencement. This chapter teaches how laws are made and how the courts later read what was made.

The making of a statute

A bill begins as a proposal, is printed and read, debated in principle, examined in committee clause by clause, passed by the chambers, and presented for assent. Each stage has a purpose: publicity, deliberation, scrutiny, decision. A defect in the constitutionally required stages can matter; a defect in mere internal procedure is ordinarily the house's own affair.

Assent completes enactment, and commencement starts the law's life — at once, if the law so says, or on an appointed day. Until commencement, a statute is law in waiting: validly made, not yet operative.

Reading statutes

Interpretation begins with the words, read in their ordinary meaning and in the statute's whole context. Where words are ambiguous, courts consider the mischief the statute aimed to cure and the purpose it aimed to serve. The literal, golden, mischievous, and purposive approaches are not rival religions but tools, chosen as the text requires.

Presumptions assist: statutes are presumed not to alter fundamental principles without clear words, not to bind retrospectively in penal matters, and not to oust the courts without saying so plainly. The interpreter's loyalty is to the enacted text — not to what the legislator wishes, in hindsight, had been enacted.

Subordinate legislation

Much modern law is made by ministers and agencies under powers a statute delegates: regulations, rules, and orders. Delegated legislation is valid only within its delegation. A regulation that exceeds the parent statute is void, however convenient; the delegate holds a measured power, not the legislature's own.

The student should test every piece of subordinate legislation with three questions: was the maker given this power, was the required procedure followed, and does the product stay within the grant? Failure on any question is failure of the instrument.

Legislative oversight

Beyond law-making, the legislature watches the executive: questions, motions, committee inquiries, and the power of the purse. Appropriation — the annual grant of money — is the legislature's strongest continuing check, because administration stops where money stops. Oversight is not administration; the watcher must not become the doer, or accountability blurs.

Worked example

A minister's regulation imposes a licence fee the parent statute never authorised; the statute empowered regulations 'for the carrying into effect' of a registration scheme, free of charge. The fee is a tax in substance, imposed without legislative grant. The regulation is ultra vires and void, and fees collected under it are repayable.

Discussion questions

• Name the stages of a bill's life and the purpose of each.

• When may a court look beyond a statute's ordinary words?

• State the three tests of a piece of delegated legislation.

Chapter summary

In this chapter you have studied the following ground. Statutes are the legislature's product, and statutory life has a rhythm: introduction, readings, committee work, passage, assent, and commencement. On the making of a statute: A bill begins as a proposal, is printed and read, debated in principle, examined in committee clause by clause, passed by the chambers, and presented for assent. On reading statutes: Interpretation begins with the words, read in their ordinary meaning and in the statute's whole context. On subordinate legislation: Much modern law is made by ministers and agencies under powers a statute delegates: regulations, rules, and orders. On legislative oversight: Beyond law-making, the legislature watches the executive: questions, motions, committee inquiries, and the power of the purse. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 6 — The Executive in Practice

Executive power executes the laws and administers the state. This chapter teaches the structure of the executive, the civil service, executive discretion, and the controls — legal, financial, and political — that keep administration lawful.

Structure of the executive

At the head stands the president or governor, in whom the constitution vests the executive power of the federation or the state. Below stand ministers and commissioners, politically responsible for departments, and the permanent civil service, which administers whoever governs. The design joins political direction to administrative continuity.

Executive power is exercised in the name of the head but on the constitution's terms. Many acts require advice, consultation, or confirmation by another body — appointments shared with the legislature, for example — and those requirements are conditions of validity, not courtesies.

Discretion and its limits

Administration runs on discretion: choices among lawful courses. Discretion is never unfettered in law, even when a statute says 'as he thinks fit'. The holder must act within the statute's purpose, consider what is relevant, ignore what is not, and act in good faith. A discretion used to defeat its own statute is an abuse the courts correct.

The classic grounds of review — illegality, irrationality, and procedural impropriety — organise the case law. The student should be able to place any challenged decision under its ground: the maker broke a rule, or reached a conclusion no reasonable maker could reach, or denied a fair procedure.

Public service and accountability

The civil service serves the public through the government of the day, and its neutrality is a constitutional asset: it advises honestly, implements loyally, and survives elections. Rules of the service — recruitment on merit, discipline by due process, security of tenure — exist so that administration is a profession, not a prize of victory.

Financial accountability runs through budgets, audited accounts, and legislative committees. Public money is held in trust; the auditor's report and the public accounts committee are the constitution's bookkeeping, unglamorous and indispensable.

Emergency powers

In war, insurrection, or catastrophe, constitutions arm the executive with emergency powers — proclaimed formally, limited in time, and subject to legislative renewal and judicial scrutiny. The pattern is constant: the emergency enlarges power and simultaneously tightens the forms around it, because that is when forms matter most.

The student should resist two errors: that emergency suspends the constitution (it operates within it), and that courts must fall silent in emergencies (their scrutiny changes its temper, not its existence).

Worked example

A licensing board, directed by a minister to refuse all applications from a named region, refuses a qualified applicant without a hearing. Three defects appear: the board surrendered its discretion to dictation, it acted on an irrelevant and discriminatory ground, and it denied fair procedure. The decision is quashed on every ground of review at once.

Discussion questions

• Why is a discretion never truly unfettered in law?

• Name and explain the three classic grounds of judicial review.

• What happens to the constitution in an emergency?

Chapter summary

In this chapter you have studied the following ground. Executive power executes the laws and administers the state. On structure of the executive: At the head stands the president or governor, in whom the constitution vests the executive power of the federation or the state. On discretion and its limits: Administration runs on discretion: choices among lawful courses. On public service and accountability: The civil service serves the public through the government of the day, and its neutrality is a constitutional asset: it advises honestly, implements loyally, and survives elections. On emergency powers: In war, insurrection, or catastrophe, constitutions arm the executive with emergency powers — proclaimed formally, limited in time, and subject to legislative renewal and judicial scrutiny. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 7 — The Judiciary and Judicial Review

The courts hold the constitution's ring. This chapter teaches the court structure in outline, judicial independence, and judicial review — the power by which courts declare acts of the other organs unlawful.

The court structure in outline

At the apex stands the supreme court, final in law for the federation. Below it, the court of appeal hears appeals from the high courts and specialised courts; high courts hold general jurisdiction; and magistrates' and customary and area courts carry the daily mass of justice. The detailed map belongs to the Nigerian Legal System volume of this library; here the student needs the shape: a pyramid, with appeal flowing upward and authority flowing down.

Specialised courts — for elections, labour, taxation, and the like — take defined fields out of the general stream. Specialisation buys expertise at the price of boundary disputes, and jurisdiction questions are therefore the daily bread of appellate courts.

Judicial independence

Independence rests on structure: appointment by a process insulated from pure politics, tenure until a retiring age, removal only for stated cause by a heavy procedure, and salaries charged on consolidated funds so no annual vote can starve a judge. Each protection answers a historical abuse; remove one and the abuse returns in modern dress.

Independence is owed to the law, not to the judge's preference. The independent judge is not free to decide as he likes; he is free to decide as the law requires, without fear of the parties' power. Impartiality is

independence turned inward.

Judicial review

Review is the courts' declaration that public power has exceeded its legal limits. Its objects are legislation (against the constitution), executive action (against constitution and statute), and subordinate legislation (against its parent). Its remedies — certiorari to quash, prohibition to stop, mandamus to compel, declarations to state — should be learned as a working set.

Review is not appeal: the court does not ask whether the decision was best, but whether it was lawful. This restraint is review's legitimacy. A court that substitutes its policy for the administrator's becomes an unelected administrator; a court that refuses to police legality abandons the constitution.

Precedent within the hierarchy

Decisions of higher courts bind lower courts on points of law — the doctrine of precedent, treated fully in the Legal Method volume. In constitutional matters the supreme court's word settles the question for all, until the constitution is amended or the court itself, rarely and for strong reason, departs from its earlier view.

The student should read constitutional judgments for their reasoning about structure — federalism, separation, rights — because constitutional precedent is the constitution's second text.

Worked example

A state law purports to remove a class of land disputes from the courts and vest final decision in a governor's panel. The law strikes at the judicial power the constitution vests in the courts. However efficient

the panel might be, the ouster is unconstitutional, and the law is void to the extent of the ouster.

Discussion questions

• What structural protections make judicial independence real?

• Distinguish judicial review from appeal.

• Why does restraint give judicial review its legitimacy?

Chapter summary

In this chapter you have studied the following ground. The courts hold the constitution's ring. This chapter teaches the court structure in outline, judicial independence, and judicial review — the power by which courts declare acts of the other organs unlawful. On the court structure in outline: At the apex stands the supreme court, final in law for the federation. On judicial independence: Independence rests on structure: appointment by a process insulated from pure politics, tenure until a retiring age, removal only for stated cause by a heavy procedure, and salaries charged on consolidated funds so no annual vote can starve a judge. On judicial review: Review is the courts' declaration that public power has exceeded its legal limits. On precedent within the hierarchy: Decisions of higher courts bind lower courts on points of law — the doctrine of precedent, treated fully in the Legal Method volume. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 8 — Amendment and Constitutional Change

Constitutions must change without ceasing to be constitutions. This chapter teaches amendment procedures, their special majorities and consents, and the difference between amending a constitution and replacing it.

Why amendment is deliberately hard

An amendment procedure is the constitution locking its own doors against casual entry: special majorities in the legislature, and for many provisions the consent of a spread of states. The difficulty is the point. What a bare majority could rewrite at will would be a statute with a grander name.

Yet a constitution that cannot change will be changed by force or abandoned by practice. The amendment power is therefore a safety valve, designed to be usable — solemnly, publicly, and rarely. The student should learn the required majorities and consents for the Nigerian constitution as a matter of structure: some clauses demand more agreement than others, and the deepest clauses demand the most.

Amendment and its limits

Courts police the procedure of amendment: an alteration enacted without the required majorities is no amendment at all. Whether courts may also police the substance of an amendment — whether some features are so basic that even amendment cannot destroy them — is one of constitutional law's great debates, and the student should know the arguments on both sides before adopting either.

In practice, the safer doctrine in most federations is procedural vigilance joined to political restraint: the text prescribes how change happens, and the people's representatives carry the responsibility for what change is wise.

Constitutions in Nigerian history

Nigeria's constitutional history runs from colonial orders through independence and republican constitutions, military suspensions, and returns to civil rule. Each transition teaches the same lesson from a different side: constitutions live when institutions and citizens defend them, and paper alone has never stopped a tank or a mob.

The military interludes also teach the law's humility: courts under unconstitutional regimes worked in narrow spaces, preserving what legality they could. The student's judgment of that era should be informed before it is severe.

The citizen and the constitution

A constitution is finally kept by its citizens: voters who punish its breach, officials who refuse unlawful orders, lawyers who bring the cases, and judges who decide them. Constitutional law is therefore not only a subject but a civic practice, and this book's last word on structure is that structure needs keepers.

Worked example

A purported amendment altering a deeply entrenched clause is passed by the national legislature alone, without the state consents the constitution requires for that clause. The defect is not technical but constitutive: the amending body acted without the authority the constitution conditions. The alteration is invalid, and the original clause stands.

Discussion questions

• Why are amendment procedures deliberately difficult?

• Distinguish procedural from substantive limits on amendment.

• What keeps a constitution alive, beyond its text?

Chapter summary

In this chapter you have studied the following ground. Constitutions must change without ceasing to be constitutions. On why amendment is deliberately hard: An amendment procedure is the constitution locking its own doors against casual entry: special majorities in the legislature, and for many provisions the consent of a spread of states. On amendment and its limits: Courts police the procedure of amendment: an alteration enacted without the required majorities is no amendment at all. On constitutions in Nigerian history: Nigeria's constitutional history runs from colonial orders through independence and republican constitutions, military suspensions, and returns to civil rule. On the citizen and the constitution: A constitution is finally kept by its citizens: voters who punish its breach, officials who refuse unlawful orders, lawyers who bring the cases, and judges who decide them. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 9 — Rights in Daily Practice

Rights law is learned in the cases of ordinary people: arrests at checkpoints, seized goods, silenced meetings, dismissed workers. This chapter gathers the principles into practice — how a rights claim is framed, proved, and remedied.

Framing a rights claim

A claim begins by naming the right and the act that engages it: who acted, under what claimed authority, and what exactly was done. Vague grievances fail; precise claims succeed. The applicant's affidavit tells the story in facts, and the law is then applied to facts, not to feelings.

The respondent authority must then justify: produce the law relied on, show the act fell within it, and show any limitation was permitted. Where the authority cannot produce its warrant, the case is effectively over — power that cannot show its source has none.

Common theatres of rights

Arrest and detention generate the steadiest stream: grounds not stated, periods exceeded, bail refused without reason. Each is a liberty case with a settled answer, and the student's mastery of the permitted periods and procedures is expected professional equipment.

Expression and assembly cases test the boundary between order and suppression: a permit regime administered as a veto, a closure aimed at criticism rather than danger. The courts' question is constant — was the restriction truly aimed at a permitted object, and did it go further than that object required?

Remedies and compensation

The court may declare the breach, restrain its repetition, order release or restoration, and award compensation. Compensation in rights cases serves two masters: it repairs the victim and it prices the breach for the authority that committed it. Exemplary awards mark conduct the court wishes to make expensive.

An apology ordered or given also has its place: public power acknowledging a wrong is itself a constitutional event, teaching every watching officer the line's location.

Rights and responsibilities

The rights chapter of a constitution is matched by the citizen's duties in the state's directive principles and ordinary law: to respect others' rights, obey lawful authority, and use rights without destroying the conditions that make them possible. The mature student holds both pages open at once.

Worked example

Officers seize a trader's goods at a roadblock, give no inventory and no stated law, and keep the goods for months. The claim names the property and liberty interests engaged; the authority produces no lawful warrant for the seizure. The court declares the seizure unlawful, orders return of the goods, and awards compensation for the detention of the trader's livelihood.

Discussion questions

• What are the first two moves in framing a rights claim?

• What two purposes does compensation serve in rights cases?

• Why must the authority, not the citizen, produce the warrant?

Chapter summary

In this chapter you have studied the following ground. Rights law is learned in the cases of ordinary people: arrests at checkpoints, seized goods, silenced meetings, dismissed workers. On framing a rights claim: A claim begins by naming the right and the act that engages it: who acted, under what claimed authority, and what exactly was done. On common theatres of rights: Arrest and detention generate the steadiest stream: grounds not stated, periods exceeded, bail refused without reason. On remedies and compensation: The court may declare the breach, restrain its repetition, order release or restoration, and award compensation. On rights and responsibilities: The rights chapter of a constitution is matched by the citizen's duties in the state's directive principles and ordinary law: to respect others' rights, obey lawful authority, and use rights without destroying the conditions that make them possible. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

Chapter 10 — Revision: The Constitutional Map

The final chapter draws the whole subject together: a single map of constitution, organs, federation, rights, and courts, and the method by which any constitutional problem is attacked.

The map whole

Hold the structure in one view: a supreme written constitution creates three organs, divides power vertically between federation and states, guarantees rights against all of them, arms courts to police the whole, and prescribes how it may itself be changed. Every constitutional problem is a question about one joint of this structure.

The student's revision should rebuild the map from memory, then test it against problems: a state law on a federal subject, a minister's order without statutory warrant, a detention beyond its period, an amendment without its consents. Four problems, four joints, one method.

The method of attack

Ask in order: What power is claimed? Where is it granted? What conditions attend the grant? Were they observed? If the act touches a right, is the limitation permitted? What remedy follows? This sequence, applied patiently, resolves most constitutional questions before authority is even opened — authority then confirms and refines.

Write the answer as a court would: facts, issue, rule, application, conclusion. Constitutional advocacy is architecture, not eloquence; the structure carries the weight.

Further study

From here the road runs to the text itself, read entire; then to the great judgments, read for their reasoning; then to the commentaries, read critically. This teaching version has given the principles in general words — the student's own reading must now give them their Nigerian flesh.

Keep the companion volumes near: Legal Method for the craft, the Nigerian Legal System for the map of courts, and Jurisprudence for the questions beneath the questions.

Worked example

A problem mixes all joints at once: a state creates a tribunal to try a federal offence and detain suspects indefinitely, citing local emergency. The method unthreads it: no competence over the federal subject, no power to oust the courts, no detention beyond constitutional periods — the scheme fails at three joints, and the answer is written joint by joint.

Discussion questions

• Recite the six questions of the constitutional method.

• Why should the text be read entire before the commentaries?

• Name the four joints tested by the four revision problems.

Chapter summary

In this chapter you have studied the following ground. The final chapter draws the whole subject together: a single map of constitution, organs, federation, rights, and courts, and the method by which any constitutional problem is attacked. On the map whole: Hold the structure in one view: a supreme written constitution creates three organs, divides power vertically between federation and states,

guarantees rights against all of them, arms courts to police the whole, and prescribes how it may itself be changed. On the method of attack: Ask in order: What power is claimed? Where is it granted? What conditions attend the grant? Were they observed? If the act touches a right, is the limitation permitted? What remedy follows? This sequence, applied patiently, resolves most constitutional questions before authority is even opened — authority then confirms and refines. On further study: From here the road runs to the text itself, read entire; then to the great judgments, read for their reasoning; then to the commentaries, read critically. Work the discussion questions before you continue; the summary is a map for revision, not a substitute for the chapter.

PRACTICE PROBLEMS WITH GUIDED OUTLINES

Four problems follow, one for each of the first four chapters' ground. Attempt each in writing, under time, before reading its outline. The outline names the points a full answer must reach; it does not write the answer — that labour is yours, and it is where the learning is.

Problem 1 — What a Constitution Is

Advise on a dispute raising the ground of this chapter. A full answer must reach, in order: The idea of constitutionalism; Supremacy of the constitution; Written and unwritten elements; How this book proceeds. It must state each doctrine before applying it, must argue the other side's best point, and must conclude. Compare your attempt with the chapter's worked example: "A ministry issues a directive that conflicts with a clear constitutional provision on who may appoint a class of officers. A citizen challenges it. The court's task is not to ask w..."

Problem 2 — The Organs of Government

Advise on a dispute raising the ground of this chapter. A full answer must reach, in order: The separation of powers; Checks and balances; The legislature; The executive and the judiciary. It must state each doctrine before applying it, must argue the other side's best point, and must conclude. Compare your attempt with the chapter's worked example: "A governor purports to dissolve a state legislature by proclamation. Whatever the political merits, the constitutional analysis is structural: dissolution, if it exists at all, mus..."

Problem 3 — Federalism and the Division of Power

Advise on a dispute raising the ground of this chapter. A full answer must reach, in order: Why federations divide power; The legislative lists; Conflicts and their resolution; States and local government. It must state each doctrine before applying it, must argue the other side's best point, and must conclude. Compare your attempt with the chapter's worked example: "A state enacts a law regulating a subject on the exclusive federal list, arguing that local conditions require it. Local need, however genuine, cannot manufacture competence. The l..."

Problem 4 — Fundamental Rights

Advise on a dispute raising the ground of this chapter. A full answer must reach, in order: The nature of rights; The principal rights in outline; Limitation and derogation; Enforcement. It must state each doctrine before applying it, must argue the other side's best point, and must conclude. Compare your attempt with the chapter's worked example: "Police hold a suspect for nine days without charge or court appearance, citing the seriousness of the allegation. Seriousness is not a constitutional ground for extended detention...."

A LAST WORD TO THE STUDENT

You have finished this teaching book. Finish is the wrong word: a law book is a tool, and it earns its place only when you return to it with a problem in your hand. Keep it beside the other books of this library, work the questions again after a month, and let each return teach you what the first reading could not. That is how lawyers are made — by return, by work, and by patience.

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