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*Review Article*

# Overcoming Discrimination on Grounds of Race, Disability, Gender, LGBTQIA+ in Nigeria: Role of Constitutions

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**Abstract**

Over the years, discrimination based on race, gender, disability, sexual status, or gender identity has become more prominent. While organisations and groups are making efforts to end the discrimination, constitutions and lawmakers have to play a role in overcoming this injustice. This research argues that the various challenges that vulnerable individuals face include the idea that they are seen and treated as nuisances and threats to the national values, moral order, religious beliefs, and everyday notions of gender identity. Therefore, this research aims to explore the roles constitutions can play in alleviating the sufferings of victims of discrimination. The research method adopted is the doctrinal research, involving the analysis of existing literature on the topic and applying reasoning, as well as observation principles to deduce viable solutions to the injustice. Focus was placed on reports from United States of America and other foreign countries due to their robust literature on the subject matter. This study found that the explicit inclusion of the vulnerable individuals in the constitution may have a more significant impact in overcoming the injustice of discrimination against such group. This research recommends that constitutions provide explicitly for enforcement of the rights of everyone against all forms of discrimination undermining their gender identities.

**Keywords:** Constitution; Discrimination; Injustice; LGBTQIA+; Race; Sexual status.

## INTRODUCTION

As the world progresses in the 21st century, widespread confusion, anxiety, and anticipations exist about the constitutional solutions to injustice based on discrimination on the grounds of race, gender, disability, and LGBTQIA+ status.[1] It is safe to assume that discrimination results in social and economic inequalities that create difficulties of all sorts in the lives of the persons discriminated against. Discrimination can occur on various grounds, among which are; gender, race, disability, sexual status, ethnic background and many others. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) defines discrimination against women as "any distinction or restriction made based on gender which could impair or nullify the recognition or privileges exercised by women, based on the equality of

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both men and women, of fundamental rights in the economic, civil, political, or any other field".[2] Globally, women are being treated as the weaker gender and are, as a result, discriminated against and overlooked. Gender oppression limits the societal respect and values given to women and widows. Despite various actions channelled against it, for example seminars and webinars that promote equality of citizens it is difficult to put an end to it since it is sustained mainly by the unintentional, lack of self-consciousness actions of millions of people.

Another prominent form of discrimination is racism; this has eaten deep into the roots of all aspects of the society, producing social, economic, and political inequalities in race that are inextricably connected to the past.[3] Despite several efforts, the struggle against racial injustice has not ended; for instance, the murders of George Floyd, Breonna Taylor, Ahmad Abbey, and countless other Black men and women recorded in America in 2020.[4] Meanwhile, discrimination can also be based on disability. Over the course of history, society has always put restrictions on the skills and potentials of disabled individuals.[5] These categories are given no opportunity to set goals, dreams, or objectives for their lives because they are judged and limited because of how they were born or how they look. Generally, disabled individuals lack adequate representation in the labour workforce, and even those who manage to get jobs are unfairly treated.[6] Lastly, another dimension of discrimination is sexual status or identity; here, the people discriminated against are called the LGBTQIA+, an acronym which stands for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual people; those in this category have to conceal their true identity for fear of stigma, rejection, or imprisonment in some countries like Singapore, Kenya, Cameroon and many others. The people who fall under the sphere are demeaned and ill-treated. They are subjected to various forms of sufferings and painful treatments like abduction, torture, sexual violence[7] and a conversion therapy, a degrading treatment used to change the gender identities of people.[8] Despite all of these, there are not enough laws and actions to protect their human rights and entitlements.

Over the past few decades, interest in discrimination and injustice has increased dramatically. The need for a change in the global approach to discrimination has been recognized in countries like Botswana, Angola, Gabon among many others. Comprehensive research has been conducted on the sufferings and challenges that discrimination on race, gender, disability, or LGBTQIA+ causes[10-12] Several studies have also explored methods and laws to advocate against this discrimination and provide global solutions; however, there are minimal resources that have explored the role of constitutions in overcoming the injustice. While States like Spain and Norway have incorporated laws preventing discrimination in their constitutions[13], countries like Saudi Arabia, Tunisia, Nigeria and many others have not provided for laws covering all areas of the grounds of discrimination.[14]

This study, unlike previous ones, highlights the central roles that constitutions have to play in eradicating these crippling phenomena and dwells mainly upon the role of lawmakers and the government in curbing discrimination and ensuring justice for all. Hence, the objectives of this study are to briefly highlight the injustice based on discrimination on the grounds of race, gender, disability, and sexual status, i.e., LGBTQIA+, to discuss existing laws and actions put in place to overcome the injustice, and to evaluate the roles of constitutions globally. Locally, the study would help guarantee the protection of the rights of the discriminated in Nigeria and hopefully motivate the legislators to abolish existing discrimination laws.

## DISCRIMINATION ON GROUNDS OF RACE, GENDER, DISABILITY, AND SEXUAL STATUS

The struggles against discrimination in all areas exist to this present date. Racism has evolved from colonialism, segregation, and slavery into police brutality, racial disparities, and racial profiling.[15] Often, institutional and systemic racism is described as a branded contemporary form of racial oppression present in social and other institutions.[16] Many contemporary forms of racism have emerged over the years; however, the concept of anti-black racism is fundamentally unchanged.[17] Significant forms of racial discrimination are prejudice and overt bias, stereotyping and racial profiling.[18] Racism because of overt prejudice is mainly expressed through hostile feelings held by someone about a racialised person or group[21] Some areas where racial prejudice is demonstrated are acquiring a home, getting an apartment, or privileges acquired through job opportunities withdrawn because of an individual's race.[22] Stereotyping involves attributing the same characteristics to all members

of a group, regardless of individual differences.[23] Stereotyping is mainly based on misconceptions, incomplete information, or false generalisations assumed simply because of one's racial status.[24] Also, racial profiling is an action of suspecting or specifically targeting people based on ethnicity, colour, or religion.[25] The Ontario Human Rights Commission has defined racial profiling as actions taken explicitly for reasons of safety that rely on stereotypes about colour, ancestry, belief, or birthplace rather than on individual suspicion to pick out an individual for different treatment.[26]

Racism occurs in many areas and different forms. An often overlooked form of systemic racism is environmental injustice to the Blacks. The members of the Black population that live in slums face a very challenging lifestyle and endure appalling environmental conditions to which the government does nothing.[26] An example is the Flint water crisis in Flint, Michigan, where many people, especially Blacks with meagre incomes, died due to lead poisoning in the water.[27] According to research done by Princeton University, it was discovered that compared to children of other races, Black children are more prone to asthma than White children, majorly caused by the dangers of polluted air they are exposed to due to residential segregation.[28] These environmental conditions can then be traced back to longstanding systems of discrimination, including economic and political disenfranchisement, uneven access to housing, segregation, and unequal political power.[29]

Black transgender people face precarious socio-economic conditions. According to the American Medical Association, violence and discrimination against this set of people are even more prevalent, consisting of several reported shootings and killings of Black people who are found to be transgender. Research shows that it is even more difficult for Black applicants to get called on job interviews. For instance, a study conducted by the Harvard Business School showed that applicants with ethnically sounding names, such as Black and Asian individuals, had fewer chances to be called for interviews.[30] Also, Black workers tend to face discrimination, micro-aggressions, stereotyping, profiling, and even hostility in the work environments.[31]

Even in the criminal legal justice system, racism is the order of the day; studies show that over half of the death row exonerees are Black, nearly half the people currently on death row are Black, and half of the 2,947 people exonerated since 1989 is Black.[32] Innocent Black people are more prone to wrongful convictions of murder than innocent white people, and it takes longer to exonerate an innocent Black person.[33] Also, misconduct by police officers occurred in over half of all the false murder conviction cases involving innocent Black persons, and about one-third of unarmed people killed by the police are Black.[33]

Additionally, discrimination based on disability completely eradicates the individual means of living of the disabled mainly because they are not allowed to work or advance in competitive career settings.[34] Disabilities come in different forms; sensory disabilities, learning disabilities, vision and speaking loss, cognitive disabilities, and physical disabilities.[35] These forms of disabilities come along with different forms of discrimination in employment, education, and other vital aspects of life. The policy instilled by the Fair Labour Standards Act[36] makes it legal for people with disabilities to be paid below minimum wage for the same work that those without disabilities do.[37] Disability comes with a feeling of rejection, loss, dejection, or isolation. Below is a statement from a disabled person;

*"It surprised me how sitting down and using a mobility aid changed the way others viewed me. I had gone from being a well-regarded professional to a marginalised and oppressed member of a minority group …People looked at me differently, as though I was not one of them."*[38]

For example, In ***Keith Vs. County of Oakland***[39], a deaf man named Keith was barred from being employed as a lifeguard even though he knew CPR. He could swim well. He knew the proper procedures and had all the qualifications and training needed to become a lifeguard. The Sixth Circuit Court of Appeals overturned the district court's decision to side with the county because Keith could fulfil the job requirements, and it was apparent that he had been turned away because he could not hear.[40]

Gender discrimination is a form of structural injustice because it limits and shapes individual choices and circumstances and is mainly sustained by the unintentional, unself-conscious actions of millions of people and norms, habits, and institutions.[41] Consciously or unconsciously, people discriminate based on gender, mostly against women; existing stereotypes, societal beliefs, and values about the place of women have contributed to the longstanding injustice. Around the world, the political aspects of the societies are dominated by men and not women because of societal misconceptions that women are weak,

not meant for the role, or women do not even show interest because of existing social standards placed to reinforce gender discrimination. Gender discrimination is most prominent in African countries or less developed countries; old customs and norms have helped create this gender stereotype and inferiority given to women.[42] The cause of this problem is deeply rooted such that even civilization and changing laws have failed to eliminate many of the worst forms of gender specific harm.[43] Also, gender discrimination occurs in the economic sector, where gender specific employment opportunities are offered to the public, thus placing the female gender at a disadvantage. For instance, the case of ***Broeks vs. the Netherlands***[44]," In the Netherlands, according to the Unemployment Benefits Act, married women are not allowed to claim continued unemployment benefits except if proven that they were "breadwinners" or separated from their husbands. Mrs. S.W.M. Broeks complained to the Human Rights Committee that a particular provision of the Unemployment Benefits Act violated Article 26 of the ICCPR, which gives rights to equality before the law. The Committee found that the provision was not reasonable as it constituted a gender bias. The Committee found that Mrs. Broeks' right under article 26 of ICCPR was violated.[45]

In Nigeria, there is a recent case where the Nigerian Bar Association (NBA) approached the court to query the legality of the provision that discriminates against female police officers. The case of Omolola Olajide, a female police officer was sacked for being pregnant before marriage. The NBA noted that the male police officers are not subjected to the same discrimination.[46]

Another primary form of gender discrimination is widow maltreatment. Following the death of the men or husbands in cultural societies, women are forced to bear the consequences and subjected to inhumane treatment.[47] For instance, drinking the water used to bathe the dead body, isolation in an evil forest or darkroom, banishment, shaving the head, loss of child custody, slavery to husbands' relatives, and many others. While this inhumane treatment is done only among women, it is unpopular that men are subjected to these forms of treatment following the death of their wives. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)[48], holds that in addition to changing discriminatory laws, states must change patterns of conduct and behaviours that demean women.[49]

Another dimension in which gender discrimination can be examined is sexual harassment. This occurs in various facets of life. Both males and females are vulnerable to sexual harassment; however, most victims of sexual harassment are of the female gender.[50] Female beauty or significant bodily features attract harassment and discrimination from their counterparts.[51] Generally, sexual harassment cases are rare in countries with low literacy rates because of people's ignorance of the concept.[52] The concept had not until 2013 been explored in Nigeria by the courts. The first court case to explore sexual harassment is the case of ***Ejieke Maduka vs. Microsoft***[53]A lady's employment was unjustly terminated because she objected to the consistent sexual harassment from her boss; the court held that the manager's action of terminating her appointment violated section 42 of the Constitution. In some countries, sexual harassment in the workplace has been prohibited by a plethora of laws.[54]

LGBTQIA+ describes distinct groups within the gay culture. The letters stand for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, and the "+" is a symbol representing community members that are not included within the LGBTQIA+ acronym. The early initiatives for people who were gay mainly focused on men. So, to draw attention to issues specific to gay women, "lesbian" is often listed first.[55] People in the LGBTQIA+ have been underrepresented and discriminated against in research studies or even legal representation in courts.[56] Many LGBTQIA+ individuals conceal their status in fear of adverse reactions at work, school, homes, or religious gatherings.[57] LGBTQIA+ persons have often been portrayed as a threat to the national values, religion, and traditional notions of gender and the family.[58] Such notions have has rarely been officially condemned. Many countries have laws against these individuals. For example, the Nigerian Same-Sex Prohibition Act[59], that provides a sentence of 14 years imprisonment to homosexual persons. The country's laws are supposed to protect the rights and identities of citizens, yet they are discriminated against and punished for their personalities because, they believe that they are abnormal. The Sharia law practised in many Northern States in Nigeria condemns any homosexual to death by stoning. The Sharia Penal Code law, 2000 in operation in Zamfara state bans homosexual acts like sodomy (gay sex), lesbianism or any other acts of gross decency.

Educational and religious institutions also discriminate against LGBTQIA+ individuals. These

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people are seen as threats and "sinners''; hence their personalities are considered offences that cost these individuals their education or religious family.[60] LGBTQIA+ persons are more likely to suffer from depression, anxiety, and anguish. Studies show that suicide and attempted suicide rates are higher for LGBTQIA+ persons than for heterosexual peers, especially young people.[61] However, these results can be attributed to the social and psychological discrimination against these people.

LGBTQIA+ persons also experience problems in accessing health care. Doctors and other medical personnel with a personal hatred for the persons in LGBTQIA+ can affect the effectiveness of healthcare they receive and outdated approaches to homosexuality and transgender identity.[62] LGBTQIA+ persons are also discriminated against in the employment sector; they face particular problems accessing the labour market.[63] The privacy of their personally sensitive data related to their gender identity history is rarely ensured.[64] Moreover, this can ultimately lead to stigmatisation or even worse consequences.

People in the LGBTQIA+ in Nigeria are portrayed as cancers eating deeply into the fabric of the society.[65] Many different people fall victims to the stigmatization and discrimination that accompanies homosexuality in the country. For instance, an incident occurred in February 2014 where a group of over 50 armed men severely beat at least 14 men who were presumed to be gay. The men were heard chanting "jungle justice, no moregay!!![66]" Also, the police raided a meeting and arrested 12 participants who were allegedly promoting homosexuality. They were kept in police custody for weeks before paying a bribe of 100,000 Naira for their release.[67] Many Nigerian gay men have been subjected to worse forms of treatments like stigmatisations, rejection, lynching, death by burning alive, stoning and many others just for being gay.[68] Whether or not they are homosexual, they are humans and they deserve proper treatment. The provisions of the Same Sex Prohibition Act, 2014 that criminalises homosexuality is a violation of the rights to dignity of human persons[69], right to freedom from discrimination[70] and whatsoever illegal treatments this category of people suffered.

It is pertinent to note that the Constitution of the Federal Republic of Nigeria clearly prohibits all forms of discriminations against human persons whether as to race, colour, religion, norms, ethnics, sex, among others.[71] Therefore, the act of the Senate or Government enacting a specific law prohibiting the practice of LGBTQIA+ could be deemed as inconsistent to the provisions of the Constitution[72] which says that any law or policy that is inconsistent with the constitution should be rendered null and void to the extent of its inconsistencies. Hence the Constitution as the grund norm ought to be the basis for determining whether such classes of people are to be discriminated against. In this instance, where there is a conflict between general (constitution) and specific laws (other national legal enactments) which should supersede, a gap for further study?

## EXISTING LAWS AND ACTIONS TO OVERCOME THE INJUSTICE

In overcoming the injustice that has been brought about by discrimination on various grounds, various laws and Acts have been enacted. In order to properly analyse the roles that constitutions can play in eradicating this debacle, the existing laws and actions must be considered to efficiently deduce the aspects where constitutions can play a more active role. There are various international laws regarding discrimination. An instance is the ICCPR[73]; the case of ***Broeks vs. Netherlands***[74] establishes a scenario where the Article 26 of the ICCPR was enforced to give protection from gender discrimination that was not associated with civil or political rights.. If any law violates an individual's fundamental right, whether or not it is a civil or political right, article 26 of the ICCPR applies.

Another very prominent instrument is the Universal Declaration of Human Rights (UDHR). The UDHR serves as an essential recommendation for the municipal laws of the member states of the UN. The UDHR asserts that everyone can claim their rights regardless of sex, race, language, religion or social standing.[75] The International Convention on the Elimination of All Forms of Racial Discrimination[76], was one of the first human rights treaties adopted by the United Nations (UN).[77] It encourages all states to desist from any act or practice of racial discrimination against individuals or groups of persons and ensure that public authorities do likewise.

For individuals with disabilities, the Americans with Disabilities Act (ADA), 1990, protects people within that category. This Act aims to ensure that the disabled are given equal rights and privileges as every other person. It guarantees equal privileges for individuals with disabilities in housing, employment, transportation, and government services.[78] Also, sections 501 and 505 of the American Rehabilitation Act[79], as amended, "guarantees the protection of employed persons

and job seekers from all forms of employment discrimination based on disability". It also requires Federal establishments and parastatals to accommodate people with disabilities unless such accommodation could lead to undue hardship.[80]"

Non-discrimination laws for individuals under the LGBTQIA+ umbrella protect against discrimination against sexual status in housing, provision of credit facilities, appointment to public offices, and employment opportunities. The Equality Act[81], also provides consistent anti-discrimination protections for LGBTQIA+ people across all areas of life. Title VII of the Civil Rights Act[82], as amended guarantees the protection of job seekers and employed persons from employment discrimination.[83] The Equal Pay Act of 1963 protects from gender based discrimination in wage payments or acquisition of benefits for men and women who work in similar establishments.[84] The CEDAW also protects women from gender discrimination.

Section 15(2) of the Constitution of the Federal Republic of Nigeria clearly provides that national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association of ties shall be prohibited.[85] Also, section 42 of the constitution states the citizen's rights to freedom from discrimination on grounds of sex, place of origin, religion, political opinion, ethnic groups and disability. The Black History Month is a specified period to celebrate and acknowledge the progress made to appreciate those who fought for the equality of rights for Black people.[86] Several other laws, practices, and actions have helped overcome the injustice caused by discrimination on various grounds worldwide; while all these have been effective, it has not entirely eradicated this injustice.

## SUCCESS OF THE INDIAN CONSTITUTION TO OVERCOME DISCRIMINATION

The Indian Constitution contains several provisions that seek to ensure equal opportunity to every citizen notwithstanding their class, sexual status, ethnic background, religion or any other unjust ground for discrimination. People like women, the old aged, LGBTQIA+, children, scheduled caste and tribe constitute the vulnerable class of the Indian society and their constitution has allowed for the protection of each of their rights. Article 14 of the constitution of India states that "the state shall not deny to any person equality before the laws within the territory of India"[87]. Also, article 15 provides that any form of discrimination among the citizens on the basis of race, caste, religion, place of birth, sex or any other grounds is prohibited by the State. In the court case of John Vallamattom v. Union of India[88], article 14 of the constitution was challenged when unfair restrictions were made on the ability of Christians to remove land for religious reasons. The Supreme Court held that the restrictions were in breach of the constitution.

The Transgender Persons (Protection of Rights) Act 2019 allows transgender people to be recognized as a third gender. In 2018, the Indian Supreme Court in ***Navtej Singh Johar vs. Union of India***[89] decriminalised consensual homosexual intercourse by invalidating Section 377 of the Indian Penal Code and excluding homosexual sex between adults.

***Justice Indu Malhotra stated thus;***

History owes an apology to these people and their families. Homosexuality is part of human sexuality. They have the right of dignity and free of discrimination. Consensual sexual acts of adults are allowed for the LGBT community.[90]

Other Justices expressed their opinions concerning the need to allow these classes of people to live with dignity, it is insufficient if they are laws concerning the protection of the discriminated without its adequate enforcement.

## ROLES OF CONSTITUTIONS

Constitutions are the basic principles of the state, the structures and government processes, and the fundamental human rights and entitlements of the citizens in a higher law that a legislative act or body cannot ordinarily alter.[91] They are bodies of rules that apply within a state's borders. International laws and Acts are basic recommendations for municipal laws, and in most cases, countries may choose whether or not to adopt them. The failure to completely eradicate the injustice can be attributed to this nature of international laws; this realisation has made advocates shift their attention to the roles of constitutions in putting an end to discrimination. Although there have been results from enacting international laws and all existing practices, the constitution is still essential. Many cases of discrimination locally do not get represented in court on the international stage because the processes are strenuous and stigmatising for the victim; this is the solid background that induced the research into the roles that constitutions have to

play in the struggle against injustice.

## EFFECTIVE LEGAL PROVISIONS

Constitutional laws and provisions are held sacrosanct and supreme in a state[92]; all citizens are aware of the legality of rules in the constitution because these rules regulate their everyday transactions. It is the duty of the government, all authorities, all organs of government and citizens to conform to, observe and apply the provisions of the constitution.[93] The laws against discrimination globally need to have adequate legal backing to prevent violation of these laws. International laws are recommendations or obligations; in most cases, it does not wield as much legal authority in sovereign states as constitutional rules. Despite the existence of some international laws against discrimination, some laws are still created in support of this treacherous act. For example, a policy instilled by the Fair Labour Standards Act makes it legal for people with disabilities to be paid below minimum wage[94]; this policy has been implemented regardless of the Americans with Disabilities Act created to give people with disabilities opportunities in education and employment.[95] Constitutions have the supreme legal power in a state, and it renders all other laws made inconsistent with its provisions void.[96] Therefore, constitutions would be able to ensure that all laws made to prohibit discrimination are legally valid and completely eradicate any law promoting it. The enactment of all laws against discrimination in constitutions would, as a result, facilitate the struggles against discrimination based on race, gender, disability, and LGBTQIA+.

## PROPER ENFORCEMENT OF LAWS ON DISCRIMINATION

A constitution establishes the central institutions and procedures through which the constitutional provisions can be adequately enforced. Other Acts, laws, and agencies used in a country derive their validity from the constitution and ultimately ensure efficiency in enforcing constitutional laws. On the other hand, international laws do not have a central executive, let alone an effective enforcement agency. This has contributed to the slow eradication of discrimination through international laws and practices. A constitution can create enforcement agencies whose main goals would be targeted solely at enforcing discrimination laws. Following the provision of section 42 of the Nigerian constitution, the enforcement attached to the laws of a constitution has permitted it to create a significant impact in eradicating discrimination, mainly based on customary laws. Many cases serve as evidence of a constitution's roles; an example is ***Onyibor Anekwe & Anor vs. Mrs. Maria Nweke.***[97] The court held that any law that denied women their inheritance rights or privileges is repugnant to natural justice, equity, and good conscience based on section 42 of the constitution that disallows discrimination based on the circumstances of one's birth. A constitution makes provision for the distribution of powers among the legislature, executive, and judiciary[98]; this division allows for all hands of the government to be on deck to prevent this injustice. By vesting powers in a judiciary, there would be a body to ensure that violators of these laws are punished.[99] A constitution would ensure that there is adequate punishment for the violation of discrimination laws in order to prevent people from engaging in such practice.

## PROTECTION OF RIGHTS OF THE DISCRIMINATED

A significant feature of the constitution is to guarantee the rights of citizens subject to it. All individuals should have the right to freedom of expression, freedom of peaceful assembly and association, freedom to own and acquire property and be heard fairly. Equality occupies a prominent role in constitutions. The use of constitutions in the fight against injustice based on discrimination on the grounds of sexual status, race, gender, or disability ensures that the rights of all individuals are adequately protected. The entrenchment of laws in the constitution provides a greater degree of obedience from the citizens. For example, the entrenchment of the law against discrimination on any grounds in section 42[100] of the Nigerian Constitution has to an extent, eradicated discrimination in the country down to the norms and cultures of the people. The Nigerian case of ***Mojekwu vs. Mojekwu (1997)***[101], The court ruled against a cultural law that allowed for the exclusion of females in the distribution of a father's property among the children. The court's decision was based on section 42 of the constitution. Constitutions have this role in protecting the rights of everyone, notwithstanding their sex, colour, race, gender, or even disability, because everyone is equal under the law. Universally, constitutions contain the enforceable rights of citizens; the enactment of

these rights into the constitution will increase the legitimacy of their rights against discrimination.

## CONSTITUTION AS A SOCIAL CONTRACT MADE BETWEEN THE CITIZENS AND THE GOVERNMENT

The constitution can be more efficient in overcoming this injustice as it serves as a social contract between the state and the people.[102] A constitution is a collection of rules that the citizens of a state make and give unto themselves, putting all sovereignty in the people. For example, statements like this;

"*We the People of the United States, in order to form a perfect Union, establish Justice, insure domestic tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*[103]"

Generally, a common feature of constitutions is the preamble. This feature of the constitution ensures the legitimacy of its provisions and willing obedience by the citizens. It facilitates the view that the constitution is an agreement between the people and the government. The citizens have an obligation to obey the constitution and perform their duties to the government, and the government protects the rights of the people in return. How is the constitution a fair contract if the government cannot protect the rights of everybody? Constitutions should contain more laws against discrimination as the entrenchment of this law in the social contract can influence people's views about discrimination. In analyzing the leading causes of discrimination, it has been established that most people that discriminate do it unintentionally, unselfconscious based on their personal views and beliefs. The citizens' beliefs are shaped by the rules and regulations embedded in the constitution, as whatever is promoted by the constitution is regarded as right, and whatever is not, is regarded as wrong. Based on this analysis, constitutions can play a preeminent role in the fight against injustice if it contains enough laws against discrimination. This will enable the citizens to correct misperceptions and wrong beliefs against a particular sect and reduce the occurrence of discrimination. It will help foster unity and promote peace and cooperation in the society.

## CONSTITUTION AS A TOOL FOR CREATING AWARENESS OF LAWS ON DISCRIMINATION

Most people in underdeveloped areas enduretraumatising and inhumane treatments that come with discrimination with no voice to speak for them on the global stage. Also, many of these people are unaware of the laws in place to prevent discrimination. Since the constitution is closer to the people, they are more aware of laws and regulations that guide them and can take actions based on these constitutional provisions. Constitutional provisions are taught to students and pupils in educational institutions; this creates a broader range of people familiar with the state's rules compared to international legal instruments, conventions or policies. Constitutions can help overcome this injustice by ensuring that people are aware of discrimination laws and punishments. Those who are being discriminated against can seek justice, and those who discriminate can change their ways to avoid the wrath of the law. Through this awareness, the efforts made against discrimination can be more effective.

## CONCLUSION AND RECOMMENDATIONS

Therefore, it could be concluded that constitutions have a role in overcoming the injustice based on discrimination on the grounds of race, disability, gender, and sexual status. It can be deduced through this research that emphasis has been placed both nationally and internationally on the creation of laws that can put an end to discrimination, while little emphasis is placed on the enforcement and sensitisation of people on these laws. This research recommends that alongside recognising the role of constitutions, more outstanding efforts should be placed on the proper enforcement of laws and sensitisation of people on their rights to freedom from discrimination, especially at the grassroots level. For instance, an international law enforcement agency can be established with branches in various states to ensure proper enforcement of these international policies. Also, this research recommends that the government authorities repeal any law(s) against the LGBTQIA+ that could violate their human rights since the rights to freedom from discrimination provided by the Constitution of the Federal Republic of Nigeria is generalised and not for specific people. Hence LGBTQIA+ are not excluded explicitly. However, the key findings of this study are that the enactment of laws against discrimination in constitutions facilitates better and improved results in overcoming discrimination.

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