**PHL 305
ADVANCE POLITICAL PHILOSOPHY**

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GENERAL INTRODUCTION

Welcome to **PHL 305:** **Advance Political Philosophy** PHL 305 is a two-credit unit course that has a minimum duration of one semester. The course is compulsory for all B.A. philosophy degree students in the university. The aim of this course is to deepen student's understanding of core topics and theories in political philosophy. The course will focus on topics such as social justice, human rights, liberty and liberalism, politics and power, political obligation and disobedience. The course will also investigate how we evaluate different political systems and assess their relative merits and virtues. It will evaluate the justification, values and operation of democratic forms of government. Given the purpose of democracy, how is it attained and preserved? What are the controversies in democratic theory and practice in Africa?

Issues in Political Philosophy are existential problems of human beings that are related to human society and political order. According to D.D Raphael (1990:7), social and political philosophy is a branch of philosophy; it is an application of philosophical thinking to ideas about society and the state. Following this, philosophers from time immemorial have preoccupied their minds with questions such as: what is the purpose of the state? Who should rule? Why should the citizens obey the state? What make the state power legitimate? What are human rights and are there limit to human rights? Should the state be responsible for the welfare of her citizens? What is the best form of government? These and many more are the questions that political philosophers concern themselves about. However, several attempts have been made over the years by political philosophers from the classical to the contemporary time, to provide plausible answers to those various questions raised. Thus, this course is devoted to addressing these all-important issues.

COURSE OBJECTIVES

The following are the set objectives to achieve in this course:

- To understand the meanings of social justice, human rights, liberty and liberalism, politics and power, political obligation and civil disobedience;
- To examine the concept of democracy, how it is attained and preserved over the years vis-à-vis the controversies in democratic theory and practices in Africa; and
- To critically analyse the objections raised against each of the political theories listed above and ascertain their justifications respectively.

WORKING THROUGH THIS COURSE

For maximum efficiency, effectiveness and productivity in this course, students are required to have a copy of the course guide, main course material, download the videos and podcast, and the necessary materials for this course. These will serve as study guide and preparation before lectures. Additionally, students are required to be actively involved in forum discussion and facilitation.

STUDY UNITS

This course has a total of 13 study units which are structured into 4 modules. Each module comprises of 2-4 study units as follows:

Module 1: Social Justice and Political Philosophy

Unit 1   A Conceptual Exposition of the Notion of Justice in Political Philosophy
Unit 2   The Concept and Theories of Social Justice
Unit 3   Social Justice Theories and Africa: A Critical Evaluation

Module 2   Liberty, Liberalism and the Notion of Rights

Unit 1   On the Idea of Liberty
Unit 2   The Concept of Liberalism
Unit 3   The Notion of Rights in Political Theory
Unit 4   Politics Power and Political Systems

Module 3   Political Obligation, Civil Disobedience and Punishment

Unit 1   Political Obligation and the Origin of Civil Society
Unit 2   What is Civil Disobedience?
Unit 3   Punishment and Crimes in Civil Society
Unit 4   Theories of Punishment and Capital Punishment

Module 4   Democracy and the Democratisation Process in Africa

Unit 1   Meaning and Ideal of democracy
Unit 2   African Development and Challenges of Democratisation

PRESENTATION SCHEDULE

This course has two presentations. There is one at the middle of the semester and the other towards the end of the semester. Before presentations, the facilitator would have taken the time to establish the

rudimental of the course to the familiarity of the students. At the beginning of the semester, each student undertaking this course will be assigned a topic by the course facilitator, which will be made available in due time, for individual presentations during discussion forums. Each presenter has 15 minutes (10 minutes for presentation and 5 minutes for Question and Answer). On the other hand, students will be divided by the course facilitator into different groups. Each group is expected to come up with a topic to work on and to submit same topic to the facilitator via the recommended medium.

Note: Students are required to submit both papers via the recommended medium for further examination and grading. Both attract 5% of total marks.

ASSESSMENT

In addition to the discussion forum presentations, two other papers are required in this course. The paper should not exceed 1, 500 words (excluding references). It should be typewritten in 12 fonts, 1.5 spacing, and Times New Roman font. The preferred reference is APA 6th edition (you can download a copy online). The topics will be made available in due time. Each of the essays carries 10%, bringing the total number of possible marks to 20%.

To avoid plagiarism, students should use the followings links to test run their papers before submission:

● http://plagiarism.org
● http://www.library.arizona.edu/help/tutorials/plagiarism/index.ht ml

If the student is unable to check, the course facilitator will do this after retrieving the electronic format from their student. Similarity index for submitted works by student must NOT EXCEED 35%. Finally, all students taking this course MUST take the final exam which attracts 70% of the total marks.

HOW TO GET THE MOST OUT OF THIS COURSE

For students to get the most out of this course, s/he must:

● Have 75% of attendance through active participations in both forum discussions and facilitation;
● Read each topic in the course materials before it is being treated in the class;

- Submit every assignment as at when due; as failure to do so will attract a penalty;
- Discuss and share ideas among his/her peers; this will help in understanding the course more;
- Download videos, podcasts and summary of group discussions for personal consumption;
- Attempt each self-assessment exercises in the main course material;
- Take the final exam; and
- Approach the course facilitator when having any challenge with the course.

FACILITATION

This course operates a learner-centred online facilitation. To support the student's learning process, the course facilitator will, one, introduce each topic under discussion; two, open floor for discussion. Each student is expected to read the course materials, as well as other related publications, and raise critical issues which s/he shall bring forth in the forum discussion for further dissection; three, summarizes forum discussion; four, upload materials, videos and podcasts to the forum; and five, disseminate information via email and SMS if need be.

REFERENCES/FURTHER READINGS/WEB SOURCES

Bodunrin, P. O. (1989). "Federal Character and Social Justice." In Ekeh, P. and Osaghae, E. Ed. *Federal Character and Federalism in Nigeria.* Ibadan: Heinemann Educational Books.

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Nozick, R. (1974). *Anarchy, State and Utopia.* New York: Basic Books.

Oladipo, O. (2008). "The Need for a Social Philosophy in Africa." *Convocation Lecture,* Delivered at Ambrose Alli University Ekpoma.

Omoregbe, J. (1993). *Ethics A Systematic and Historical Study* Lagos: JOJA Publishers.

Otakpor N. (1993). "A Sense of Justice" In *Readings in Social and Political Philosophy* E.d F.A Adeigbo, Vol. 2, Ibadan: Claverianum Press.

Rapheal, D.D. (1976). *Problem of Political Philosophy*, London: Macmillan Press.

Waseem and Ashraf (2006). Social Science and the Constitution of India, The India Journal of Political Science. Volume LXVII (4): 767–782.

Walzer, M. (1992). "Justice and Abstraction." In Mulhall, S. and Swift, A. Ed. *Liberalism and Communitarianism.* Oxford: Blackwell Publisher.

In addition to the afore-stated work, the following online sites can also assist students to acquire additional publications:

- www.pdfdrive.net
- www.bookboon.com
- www.sparknotes.com
- http://ebookee.org
- https://scholar.google.com
- https://books.google.com

MAIN COURSE

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MODULE 1   SOCIAL JUSTICE

Unit 1   A Conceptual Exposition of the Notion of Justice in
                Political Philosophy
Unit 2   The Concept and Theories of Social Justice
Unit 3   Social Justice Theories and Africa: A Critical Evaluation

**Unit 1   A Conceptual Exposition of the Notion of Justice
                in Political Philosophy**

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   Justice: A Conceptual Clarification
1.3.1   Divine Theory of Justice
            1.3.2   Retributive Justice
            1.3.3   Distributive Justice
1.4   The Relationship between Justice and Political Philosophy
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, the focus will be on the idea of justice. It is important for
you to first have a very deep understanding of justice before attempting
to see what is meant by "social justice" – the fundamental object of this
module. So, in this unit, two fundamental tasks will be undertaken. In
the first, you will learn about the meaning of justice. In the same task,
you will also be introduced to some of the notable theories of justice
such as distributive, retributive and divine theory of justice. In the
second task you will learn about the kind of relationship that may be
found when talking about justice and political philosophy. In other
words, in the second section of this unit you will find answer to the
question: What kind of relationship exists between justice and political
philosophy?

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss the meaning of justice as a political concept
•   identify some theories of justice
•   distinguish between the theories of justice and understand the
        main thesis of each of themd

• analyse the relationship between justice and political philosophy.

1.3   Justice: A Conceptual Clarification

Often time, you have heard people talked about or mentioned the word justice, especially in politics. But, have you ever asked yourself the question, 'What is justice? What do people mean when the word justice is mentioned and how does it function as a political idea? In this unit, you will be reading answers to these adumbrated questions. To start with, I can simply say that the term justice is as old as any attempt to form human society for the benefit of every member of the society and for the sake of mutual co-existence. In other words, what we are saying is that justice is a technical term that people who want to devise a plan for equity in society have never failed to do without. B.S Cayne (1992:532) reveals that justice is the "behaviour to oneself or to another which is strictly in accord with currently accepted ethical law or as decreed by legal authority". What do you think B.S Cayne is saying about justice? He is simply saying that Justice has to do with what is in agreement with laid down principles or rules of regulation guiding the daily activities of a society. However, if this is the case, how come people are always prone to be against the side of the law? Is it because the law is too harsh on them? These are questions that whoever wants to examine the idea of justice must never joke with. Konow James in his 2003 work maintains that "It is also the act of being just and/or fair" (2003:1188). This does not however make matters simple as the questions of what is just and what is fair have occupied the minds of the political philosopher up till the present day. Technological breakthroughs that include the advancement in scientific research is one of the many developments that affect the social interaction among the individuals thus making what philosophers in the present age consider while they were theorizing become obsolete.

Contemporaneously, the American 20th century political philosopher John Rawls admits that "justice is the first virtue of social institutions, as truth is of systems of thoughts" (Rawls, 1999:3). This shows the inevitable importance of justice in any social interaction. Daston Lorraine (2008: 7) puts that:

Justice can be thought of as distinct from and more fundamental than benevolence, charity, mercy, generosity, or compassion. Justice has traditionally been associated with concepts of fate, reincarnation or Divine Providence, i.e. with a life in accordance with the cosmic plan. The association of justice with fairness has thus been historically and culturally rare and is perhaps chiefly a modern innovation [in western societies].

What you may possibly see in the above excerpt is that only very little consideration may have been given to not only non-Western societies but also to nonhuman animals. We must also point out that our philosopher in focus, Robert Nozick gives attention to the place of nonhuman animals in his work. Peter Singer (1975) noted this when he reveals that:

Although, Nozick admits that the book contains no full-scale presentation of the moral basis for his views, there is some unorthodox moral philosophy, including a lengthy discussion of the place of nonhuman animals in morality. Nozick thereby becomes one of the small but growing numbers of contemporary philosophers who have given this neglected topic genuine consideration, and he joins those who urge radical changes in our treatment of nonhumans, including the recommendation that we stop eating them.

Perhaps, you should ask yourself, what is the nature of justice in philosophy or what is the nature of justice for some philosophers? To answer the questions, we may have to recourse to history of philosophy. It has been argued that before philosophers in the 20th century began to theorise on justice, ancient Greek scholars such as Cephalos, Polemarchus, Thrasymachus, Protagoras, Plato, Aristotle have also made their own impart. Plato for instance, in his dialogue *The Republic*, uses Socrates to argue for justice that covers both the just person and the just City State. To him, justice is a proper, harmonious relationship between the warring parts of the person or city. Hence Plato's definition of justice is that justice is the having and doing of what is one's own. A just man is a man in just the right place, doing his best and giving the precise equivalent of what he has received. This applies both at the individual level and at the universal level. (see Wikipedia 2013).

But what exactly was Plato's idea? Plato holds the view that a person's soul has three parts – reason, spirit and desire. Similarly, a society has three parts – artisans, soldiers and rulers. Socrates uses the parable of the chariot to illustrate his point: a chariot works as a whole because the two horses' power is directed by the charioteer. Lovers of wisdom – philosophers, in one sense of the term – should rule because only they understand what is good. If one is ill, one goes to a doctor rather than a psychologist, because the doctor is expert in the subject of health. Similarly, one should trust one's society to an expert in the subject of the good, not to a mere politician who tries to gain power by giving people what they want, rather than what's good for them. Socrates uses the parable of the ship to illustrate this point: the unjust society is like a ship in open ocean, crewed by a powerful but drunken captain (the common people), a group of untrustworthy advisors who try to manipulate the captain into giving them power over the ship's course (the politicians),

and a navigator (the philosopher) who is the only one who knows how to get the ship to port. For Socrates, the only way the ship will reach its destination – the good – is if the navigator takes charge. This has come to be known as the harmonious theory of justice.

The above discourse on justice as perceived by Plato will leads us into the discussion on the various theories of justice. These various theories have come up as a result of the fact that various scholars have dwelled on the subject for centuries. Plato's harmonious idea of justice seems to be oldest. However, for the purpose of our present study, we shall look at the three popular theories of justice.

The various theories of justice that you will come across in this study and any other studies in political philosophy includes: Distributive theories of justice, Retributive theories of justice, Divine theory of justice, etc. Although, there are many other theories, we shall limit our discussion to these ones that we have highlighted as they capture what we are concerned with in this unit
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1.3.1 Divine Theory of Justice

The Divine theory of justice stems from the belief in a Supreme Being who caused the world to exist and orders the continuous order of things. This Supreme Being is thought to have also made laws that would guide the operations of the humans that he had created. The Divine Theory of justice is closely knitted with the Divine Command Theory of morality. Emmett Barcalow puts simply that:

According to the Divine Command theory of morality, an action is wrong if and only if it is forbidden by God and an action is right if and only if it is either permitted or required by God. Therefore, whatever God forbids is immoral, whatever God permits is morally acceptable, and whatever God requires is morally obligatory (Barcalow, 2000: 24).

The above, when brought into the parameters of justice tells us almost the same. What you need to understand from this is that what is just is what is approved by God. On the whole, Divine theory of justice receives its origin and foundation in the existence and belief in a God. But then, the question you should ask yourself is, does everybody believe in God? Not everybody believes in God just as not everybody believes in the same God or the same revealed 'book'.

1.3.2 Retributive Theory of Justice

Retributive justice is mainly concerned with punishment for wrongdoing. This theory, which centres on the basis of punishment is one of the oldest. According to J.A. Aigbodioh (1999:50) "the theory has as its spring-board, the Mosaic Law of "an eye for an eye and a tooth for a tooth". The reason is that it consists in paying back the offender of the law in his or her own coin by re-establishing what Mel Thompson calls "the equal balance of justice that has been outraged" (Thompson, 1994:151-4). Does this not sound barbaric? Despite the call for the barbaric nature of this theory of punishment for encouraging retaliation, it is on void of sympathisers. Retribution is not cruel because it treats a criminal with dignity (Murphy, 1979:83-4). It gives him chance to expiate his crime by suffering. The doctrine of desert, fairness, and proportionality reject cruel, barbaric, and uncivilized punishment of vengeance theory. Retributive theory puts substantial limitation on punishment.
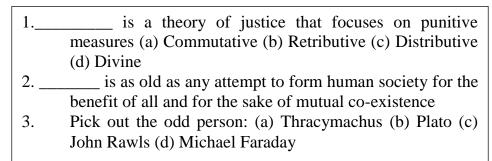
1.3.3 Distributive Theory of Justice

Distributive theory of justice is also known as social justice. In other climes, it is referred to as political justice as well. Distributive justice theorists generally do not answer questions of *who has the right* to enforce a particular favoured distribution. On the other hand, property rights theorists argue that there is no "favoured distribution." Rather, distribution should be based simply on whatever distribution results from non-coerced interactions or transactions (that is, transactions not based upon force or fraud) (Wikipedia 2013).

Under distributive theory of justice, we can discuss other stuffs like egalitarianism, fairness and the likes. What is egalitarianism? This is the theory of justice under distributivism that holds that justice occurred in a society if and only if there is equality. In another attempt, John Rawls basing his theory on the social contract tradition, argues that distributive justice can arise as a form of fairness. John Rawls came out with the conclusion that:

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all. Social and economic inequalities are to be arranged so that they are both to the greatest benefit of the least advantaged, consistent with the just savings principle, and attached to offices and positions open to all under conditions of fair equality of opportunity (Rawls, 1999:226).

Self-Assessment Exercise 1

1._____ is a theory of justice that focuses on punitive measures (a) Commutative (b) Retributive (c) Distributive (d) Divine
2. _____ is as old as any attempt to form human society for the benefit of all and for the sake of mutual co-existence
3. Pick out the odd person: (a) Thracymachus (b) Plato (c) John Rawls (d) Michael Faraday

1.4 The Relationship between Justice and Political Philosophy

Before now, we have familiarized ourselves with the meaning, nature and theories of justice. In this section, we shall do a quick gloss of the relationship that exists between justice and political philosophy. However, before moving on to show you this connection, it is important that we make an exposition on the term political philosophy. What then is political philosophy and how may can we relate it to justice?

Political philosophy, simply put may be seen as the philosophic reflections on politics. At this point, we have come to the over-arching need to explain the meaning and nature of philosophy as a discipline.

The word Philosophy is derived from two Greek words 'philo' and 'sophia' literally translated into English as 'love' and 'wisdom' respectively. Hence, a combination of both terms has led intellectuals to conceive philosophy as the love for wisdom. Bertrand Russell of blessed memory sees philosophy as the intermediary between religion and science. (1975:4) In a related development, *The New Webster's Dictionary of the English Language* explains that "philosophy is the love or pursuit of wisdom, i.e. the search for basic principles. Traditionally, Western philosophy comprises five branches of study: metaphysics, ethics, aesthetics, epistemology and logic" (Cayne 1992: 755). It must be stated that Philosophy of Other Disciplines makes the branches of philosophy six. This latter branch of philosophy investigates the knowledge claims of other disciplines. Hence we have Philosophy of Biology, Philosophy of Physics, and Philosophy of Education, Philosophy of Law, Philosophy of Politics etc. A very central feature of the discipline is that it is anti-dogmatic. Most scholars often claim that philosophy is the base and apex of any endeavour of study. This is why regardless of whatever one has studied, the highest academic qualification one can have is the PhD – Doctor of Philosophy.

On the meaning and nature of philosophy, prominent African philosopher Professor J.I Omeregbe is of the view that "philosophy is essentially a reflective activity" (Omeregbe;1985:1). We agree with him because, to philosophize is to reflect on any human experience, to search for answers to some fundamental questions that arise out of man's continuous curiosity. Philosophy is imbued in every man as it arises out of wonder. Based on this analysis, it will be foolhardy to agree with the West who categorized Miletian Thales as the father of philosophy, or what other authors have termed the first philosopher. But this claim is totally wrong. If we posit that Thales is the first philosopher, it logically means that no one before him had done any reflective activity. We must recall that human experience is the source of the reflective activity known as philosophy as Professor Joseph Omeregbe (1985:1) already points out. If we agree with this statement, then it becomes important to reject the claim that Thales is the first philosopher as ill-founded and logically out of place. Those who promote the claims that Thales is the first philosopher are promoters of the propaganda of the West.

In our own opinion, philosophy began with man's existence. There are many obstacles, challenges, wonder, curiosity that causes man to reflect deeply. J.I Omeregbe, on the nature of philosophy argues that:
To reflect on such questions in search of explanations or answers is to philosophize. There is no part of the world where men never reflect on such basic questions about the human person or about the physical universe. In other words, there is no part of the world where men do not philosophize. The tendency to reflect on such fundamental philosophic questions is part of human nature; it is rooted in man's natural instinct of curiosity – the instinct to know. (Omeregbe;1985: 1)

The above excerpt makes our point more obvious. There is no particular race that is endowed with the ability to philosophize while others lack this gift. Notable Western philosophers who have denied Africa the possibility of any reflective activities are Friedrich Hegel, Jean-Jacques Rousseau, Thomas Hobbes etc.

Friedrich Hegel, for instance, saw philosophy as the self-consciousness of the Absolute Spirit was led by racism to say that in Africa, the Spirit had not yet attained self-consciousness, meaning that there is no philosophy in Africa, no rationality, no thinking. But the above analysis has shown that their claims are ill founded. Just as we have intellectuals who promote ideologies in any other sector of the society, some African philosophers were also quick to admit that philosophy was alien to Africans on the grounds that what the Africans engaged in was bald and non-argumentative; they called it folk philosophy. A prominent scholar who holds such position is the Ghanaian philosopher, Kwasi Wiredu,

who in 1980 argues that: "without argument and clarification, there is strictly, no philosophy."(Wiredu;1980: 47) Our analysis will not pursue the apologist and non-apologists views on the existence or non-existence of African philosophy as we see this to be of little relevance to our discussion in this course. The point you should exhume from this analysis is that the denial of a philosophizing ability in Africa merely points to the advancement of ideologies of Western hegemony on other parts of the world.

On the whole, philosophy is a rational enquiry of anything to produce and explain something. It is synonymous with humans regardless of their race and culture. Every attempt to deprive Africans the ability to philosophize holds no water. Hence, philosophy in our own opinion is in every man and not until one comes to the four walls of a lecture hall can one reflect as Henry Odera Oruka points out in his philosophic sagacity.

Politics, on the other hand may be defined as "the art and science of the government of a state" (Cayne, 1992: 777). When we add 'political' to 'philosophy' it becomes glaring that political philosophy is the philosophical thinking on politics. The central question of politics still remains how to cater for the well-being of the masses. The discourse of justice finds itself in this place once again. The need to make life bearable for the populace in a society where they can pursue their vocations without the fear of domination and disregard is the major factor why political philosophers seek justice.

Self-Assessment Exercise 2

1. The following but one is a political philosopher (a) Hegel (b) Oruka (c) Hobbes (d) Plato
2. The essence of political philosophy is _____ and _____.

1.5   Summary

Thus far, this unit has been dedicated to the idea of justice. It has considered what it means or stands for as well as some notable theories on the subject. What can be noticed is that the idea of justice is central to any political set up and this is why the last part of this unit considered the idea of justice and how it intersects with political philosophy. The last part also, partially discusses how unjust knowledge can be paying minute attention to how it extends to African philosophy. In the next unit, attention will now shift to social justice, which is a variant of justice which the present module wishes to explore closely.

1.6   References/Further Readings/Web Sources

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1.7 Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. (b); 2. Justice; 3. (d)
Self-Assessment Exercise 2: 1. (b); 2. Justice and fairness

UNIT 2   THE CONCEPT AND THEORIES OF SOCIAL JUSTICE

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   What is Social Justice?
1.4   Theories of Social Justice
        1.4.1   Need-Criterion of Social Justice
        1.4.2   Merit-Criterion of Social Justice
        1.4.3   Equality-Criterion of Social Justice
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, focus will be given to a special way of understanding justice – social justice. It is also called political justice in some quarters. Yet in other places, it is also seen as distributive justice. What is it about and what kind of theory can be seen to be related to the idea of social justice? These are the core questions that the present unit are going to consider. In other words, for this unit, we shall look at the meaning of justice in general and social justice in particular. The various theories of social justice shall be discussed and a critical evaluation of each theory shall be attempted.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss what social justice is
•   differentiate between benefits and burdens in society
•   evaluate the criteria for the justification of distributions of social goods.

1.3   What is Social Justice?

Social justice deals with how the society organizes the distributions of benefits and burdens among the citizens. In other words, social justice centres on how benefits and burdens, rights and privileges, powers and wealth, are distributed or shared among the people in a society. It demands the fair or equitable distribution of the goods, privileges, work and obligations of a society to all the members (Omoregbe, 1993:113). By the word benefit we mean, those things that bring advantages or improve the life of people. Examples of these include, wealth, income, food, shelter, power, right, liberties and so on. Burdens are duties and

obligations. However, duties and obligations are those things that must be done because it is morally and legally right. Social justice therefore primarily focuses on how those things which are meant to improve the life of the people on one hand, and what should be morally and legally done by the people, on the other hand, in society are to be shared. Thus, the unfair allocation of goods and services by the state to its members is tantamount to a direct violation of social justice.

On a general note, a comprehensive study of social justice as a concept will be incomplete if we do not first of all understand in brief what justice connotes before we consider social justice in particular. Like every other concept in philosophical discourse, it is difficult to say precisely in a single definition what justice connotes. However, tracing the root meaning of the word justice to its classical Roman jurisprudence, justice is derived from the Latin word – *Jus* and *Jungere*, which means "to join or fit, a bond or tie". Otakpor (1993:19) notes that *Jus* in its original sense mean "what is fitting and therefore also binding". The joining and fitting here implies what justice stand for between one individual and another in any organized system of human interaction and the binding denote the body of law and the courts which enforce it. Also, in relation to ethical and legal thought, the term 'justice' was used as the equivalent of 'righteousness' in general and sometimes used as synonym for 'law' or 'lawfulness' and in a broader sense, closer to 'fairness'(Benn:1972:298). Moreover, Plato in the *Republic*, presents various meanings of justice, as holds by his various interlocutors thus:

(i)   to speak the truth and to pay your debt (rendering everyone what is his due)
(ii)   the art of giving goods to friends and evil to enemies
(iii)   the interest of the stronger (Jowett, 1968:25-26)

Following the above listed meaning offered as a response to the question of what justice is, Plato in this conversation reveals in a broader sense, the complexity involved in defining the concept of justice. On one hand, it must be noted that each of the meaning presented, has one limitation or the other and on the other hand, there is none of the meaning provided above that is comprehensive enough to explain precisely what the entire concept of justice means. Hence, justice as a concept must be seen as such that has a wider scope and varies in application.

Furthermore, there are various classifications of justice: we have legal justice, this aspect of justice is concerned with the individual's obligation towards the state (community). Also, there is commutative justice, which demands respect for the rights of others, and the exchange

of things of equal value. There is moral justice, this aspect refers to those rights or basic rights due to man, just because of what he is, as man. In other words, it is a right that belongs to every individual, irrespective of what he is, in terms of status, position, place of birth, time, or circumstances of life (Ekei, 2001:162-166).

Going forward, social justice as a concept has also been given different interpretation by scholars from various point of view. Following Aristotle's classification of justice as retributive and distributive; retributive justice on one hand, is associated with the legal system and legal processes, which centres on crime and punishment. While distributive justice, on the other hand deals with how benefits and burdens ought to be distributed in the society. In other words, distributive justice explains how the social goods should be distributed in such a way that it will be morally justified. It is this latter concept of justice that interprets the core idea of social justice.

Social justice concerns with the distribution of benefits and burdens throughout a society, as it results from the major social institutions–property systems, public organizations, etc. It deals with such matters as the regulation of wages and profits, the protection of person's rights through the legal system, the allocation of housing, medicine, and welfare benefits (Miller, 1991:280). Social justice in public discussion is essentially seen as the same as distributive justice. John Stuart Mill, as noted by Hayek, (1976: 62-63) explicitly treated the two terms as equivalent. He opined that:

Society should treat all equally well who have deserved equally well of it, that is who have deserved equally well absolutely. This is the highest abstract standard of social and distributive justice; towards which all institutions and the efforts of all virtuous citizens should be made in the utmost degree of coverage (Hayek, 1976: 62-63).

The above statement which connects social and distributive justice with the treatment of individuals by the society according to their deserts depicts its difference from plain justice and as well clarifies the purpose of social justice which primarily does not address the individual but the entire society. It is not misplaced at this juncture to therefore inquire into how various scholars have contended with the idea of justice?

Peter Bodunrin (1989:316) also maintains that social justice is distributive justice. According to him, it is concerned with those principles which best ensure an equitable distribution of the goods and benefits of a society. Goods and benefits must here not be understood in a purely material sense only. They include material resources, education, and all those things for which society accords respect and

recognition-good education, good jobs, and the opportunity and means to attain all those things that tend to promote human happiness. Given the above, social justice is seen as fairness in the distribution of these amenities.

From another perspective, Young Marion (1990:16) in the same line of thought maintains that the distributive paradigm defines social justice as the morally proper distribution of social benefits and burdens among society's members. Paramount among these is wealth, income, and other material resources. The distributive definition of justice often includes non-material social goods such as rights, opportunity, power and self-respect. What marks the distributive paradigm is a tendency to conceive social justice and distribution as coextensive concepts. To him, the concept of social justice includes all aspects of institutional rules and relations in so far as they are subject to potential collective decision and the issue of distribution is the starting point for a conception of social justice. Young's view as stated above, agrees with the position of scholars who argue that social justice concerns itself with distribution of benefits and burdens in the society; it is a kind of operation of society in the direction of welfare.

According to David Miller (1991:280), social justice concerns the distribution of benefits and burdens throughout a society, as it results from the major social institutions–property systems, public organizations, etc. It deals with such matters as the regulation of wages and profits, the protection of person's rights through the legal system, the allocation of housing, medicine, and welfare benefits. This definition emphasises the importance of distribution of social goods to all members of society and this is not limited to material goods but include other goods like health and housing.

Moreover, Waseem and Ashraf (2006:767), define social justice as availability of equal social opportunities for the development of personality to all the people in the society, without any discrimination on the basis of caste, sex or race. To them, no one should be deprived, because of these differences, since social goods are essential for social development.

Self-Assessment Exercises 1

1. _____ centres on how benefits and burdens, rights and privileges, powers and wealth, are distributed or shared among the people in a society (a) Power Justice (b) Divine Justice (c) Social Justice (d) Legal Justice
2. That justice is "the interest of the stronger" is a proposition ascribable to _____ (a) Aristotle (b) Seneca (c) Plato (d) None of them
3. _____also maintains that social justice is distributive justice

1.4   Theories of Social Justice

The word theories as used in this segment simply refer to the various criteria put forward by social theorist on how the distribution of social goods should be justifiably done in the society. The first criterion states that distribution of social goods should be based on need. The second one is that distribution should be according to merit, while the third criterion is that of equality.

1.4.1 Need-Criterion of Social Justice

The egalitarians are the major proponents of this first criterion of distribution and their basic idea is that the burdens and benefits in the society should be distributed according to the need of the people (Irele, 1999: 101). Prominent among them is Karl Marx; his maxim "from each according to his ability, to each according to his need" centres on the doctrine that in the communist state, the social goods of the society would be distributed according to need. In other words, the needs of the people should determine the basis of distribution. This position however, poses some problems, which demand further clarification. In the first instance, how do we determine what is somebody's essential needs since it is not every need that is to be considered. Also, can we really say that failure to meet some needs leads to injustice? The fact that an individual is suffering does not really mean that such is unjustly treated. So therefore, one could argue that the criterion of need does not really justify the reason for distributive justice. In this regard, Michael Walzer (1983:28) notes that Marx's maxim does not help at all with regard to the distribution of power, honour and fame. These three things are not things that everyone needs; hence, there is no adequate distributive criterion.

1.4.2 Merit-Criterion of Social Justice

The second criterion for the distribution of social goods in the society is merit. There is the meritorian view, which holds that justice is giving to

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each person according to his merits. That means that a man's merit determines what he deserves. He who has achieved more deserves to get more from society. In this regard, the meritorian emphasises more equal opportunity to compete for the good things of society. Given that the difficulties with this conception are that it ignores those factors which contribute to achievement, it assumes that opportunities can be equal. This conception of social justice is compatible with a highly hierarchical society. According to Bodunrin (1989:316), it says nothing about the elimination of sharp distinctions provided everybody has had the same chance to compete. Their meritocratic approach is narrow and rather stilted. It takes people as they are judging their performance without asking what it is that makes one man perform better than another. This has been largely the capitalist doctrine.

1.4.3 Equality-Criterion of Social Justice

The last criterion is that of equality. The argument here is that social goods should be distributed equally to all, since all men are said to be equal. Can we then agree to the equality of men based on this argument? It has been duly observed that men are unequal in capacities, whether of physical strength or of beauty. It may be unfair of nature to endow them so differently, but the fact remains they are not born with equal endowment. Some philosophers, according to D.D. Raphael (1976:184) contend "there is no right to positive equality of treatment, and no factual equality among men on which to base such a right. The claim for so called equality, they say, is a negative claim for the removal of arbitrary or unjustified inequality." What then may be learned from the foregoing criterion of social justice?

The deduction of the above criterion for the justification of the distribution of social goods reveals that each of the criteria, i.e. need, merit and equality, has their limitation in one-way or the other. It is not every need for instance, that can be considered, and neither failure to meet some needs leads to injustice. The meritocratic approach has been largely the capitalist doctrine, while the question of equality is also illusory in the real sense of it.

Self-Assessment Exercises 2

1. Pick the odd choice: (a) Equity (b) Merit (c) Quality (d) Need
2. There is an argument that "social goods should be distributed equally to all." Which criterion of social justice is this?
3. This maxim "from each according to his ability, to each according to his need" may be traced to which scholar and which social justice theory?

1.5   Summary

What has done in this unit thus far? In this unit, the concept of social justice as a political concept has been given a comprehensive analysis. It is also interesting to say that the various scholarly perspectives to the discourse concerning social justice were also considered. The second section of this unit was further divided into three parts, each looking at one theory of social justice. The three theories of social justice which the second part of this unit considers are need-criterion, merit-criterion and equality criterion. These three criteria were used for comprehending the theories of social justice.

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1.8   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. (c); 2. (d); 3. Peter Bodunrin
Self-Assessment Exercise 2: 1. (a); 2. Equality-criterion; 3. Karl Marx/Need-criterion of social justice

UNIT 3   SOCIAL JUSTICE THEORIES AND AFRICA: A CRITICAL EVALUATION

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   Robert Nozick and John Rawls Justice
        1.3.1   Nozick on Rawls's Idea of Justice
1.4   Social Justice and Some African States: A Practice Illustration
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, we are going to be considering the idea of social justice in the works of two prominent scholars as well as how it reflects in apartheid South Africa and some thoughts of the Rwandan genocide. These two focuses are aimed among other things of assisting with the comprehension of social justice not only in theory but in practice. This is the reason why the latter part of this unit, in its dedication to practical application of ideas looks at apartheid South Africa and the political and justice challenges of other African states such as Rwanda from the discourse entertained thus far on social justice. This is in a bid to see how justice can be denied owing to geography and race.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
*   identify the main contention of   distributive justice
*   discuss some objections levelled against distributive justice
        and   its proponent
*   explain the idea of entitlement justice of Robert Nozick would be understood
*   examine the politics of justice in apartheid South Africa and Rwandan genocide should be understood as well.

1.3   Robert Nozick and John Rawls on Justice

There are several objections that have been levelled against the idea of social justice. As earlier explained, none of the criteria put forth are error free. The criteria of need, poses some problems of how to determine what is somebody's essential need since it is not every need that is to be considered. Argument for meritocracy may collapse because it takes people as they are, judging their performance without

asking what it is that makes one man perform better than another. A critical appraisal of the criterion of equality reveals that equality of mankind is arbitrary because observation has shown that men are unequal in capacities, whether of physical strength or of beauty; men are not born with equal endowment, hence, justice may not be reduced to equality.

Furthermore, there are some political theorist who have contributed to how social goods should be distributed justly in the society. Notable among such philosophers are John Rawls and Robert Nozick among several others. Rawls (1993:5-6) considered a well-ordered society as such that must have two basic principles;

(a)   Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.

(b)

(c)   Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.

The first principle deals with greatest equal liberty for all, while the second principle has two parts; the principle of fair equality of opportunity and the second part is the difference principle. It is this second part (the difference principle) that captures the equality of all people in sharing of the socially generated goods in the society. Rawls' claims of equality in the share of socially generated wealth in the real sense does not amount to equality of everyone to an equal share of wealth. But that the wealth of the affluent contribute to the improvement of the less privilege in the society.

Given the above position held by Rawls, several objections have been levelled against his theory. Robert Nozick (1974:150) for instance, argued that people are entitled to certain goods, property, rewards and benefits if they are justly acquired. Hence, redistribution of such would be morally indefensible, if what people have right to is forcibly taken from them. Thus, Robert Nozick, a core libertarian, contends that the difference principle involves unacceptable infringement on liberty. These and many other objections are against social justice theories, which we shall not be able to itemized one after the other. In the sub-section that follows, the core contention of Nozick will be given closer attention.

1.3.1 Nozick on Rawls's Idea of Justice

Nozick, it needs to be stated, rejected Rawls' idea of social justice which is distributive in nature. For him an entitlement theory of justice is more appropriate. What were his arguments? How does he reject Rawls' position? First of all, we need to familiarize ourselves with the meanings of the entitlement theory and distributive justice as understood by Robert Nozick in *Anarcy State and Utopia*. In his own words, Nozick states that:

The term "distributive justice" is not a neutral one. Hearing the term "distribution," most people presume that some thing or mechanism uses some principle or criterion to give out a supply of things. Into this process of distributing shares some error may have crept. So it is an open question, at least, whether redistribution should take place; whether we should do again what has already been done once, though poorly. However, we are not in the position of children who have been given portions of pie by someone who now makes last minute adjustments to rectify careless cutting. There is no central distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out (Nozick, 1999:149).

In this regard, it is apparently clear that Nozick's idea of justice has no place for distributive justice as told by scholars John Locke who had thought on just distribution. Nozick maintains that "A distribution is just if it arises from another just distribution by legitimate means" (1999:151). It is from this idea that he moves on to explain the idea of entitlement. The central question of his thought here is to examine the origin and limitation of property acquisition.

In Nozick's analysis, the subject of justice in holding has three major topics. 1) The principle of justice in acquisition, which deals with the original acquisition of things – how unheld things come to be held. 2) The principle of justice in transfer, which deals with the transfer of holdings from one person to another – how a person can acquire a holding from another who holds it. 3) The principle of rectification, which deals with the rectification of injustice in holdings – what ought to be done to rectify injustice.

In a world that was perfectly just, only the first two principles would be needed, and the following definition would fully cover the subject of justice in holdings:

1.   A person who acquires a holding in accordance with the principles of justice in acquisition is entitled to that holding;

2.   A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding; and

3.   No one is entitled to a holding except by (repeated) applications of 1 and 2.

A principle of distributive justice based on entitlement would argue that a distribution is just if everyone is entitled to the holdings they possess under the distribution. This method is "justice-preserving" since repeated transitions that are in accordance with the principle are also just. However, in reality, not all situations follow the first two principles, since people steal, defraud, etc. others. This is what leads to the principle of rectification.

These principles lay out the theory of justice in holdings: The holdings of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice (as specified by the first two principles). If each person's holding is just, then the total set (distribution) of holdings is just. To buttress the argument, he is trying to give us, he uses the famous Wilt Chamberlain argument.

Nozick's famous *Wilt Chamberlain argument* is an attempt to show that patterned principles of just distribution are incompatible with liberty. He asks us to assume that the original distribution in society, D1, is ordered by our choice of patterned principle, for instance Rawls's Difference Principle. Wilt Chamberlain is an extremely popular basketball player in this society, and Nozick further assumes 1 million people are willing to freely give Wilt 25 cents each to watch him play basketball over the course of a season (we assume no other transactions occur). Wilt now has $250,000, a much larger sum than any of the other people in the society. The new distribution in society, call it D2, obviously is no longer ordered by our favoured pattern that ordered D1. However, Nozick argues that D2 is just. For if each agent freely exchanges some of his D1 share with WC and D1 was a just distribution (we know D1 was just, because it was ordered according to your favourite patterned principle of distribution), how can D2 fail to be a just distribution? Thus, Nozick argues that what the Wilt Chamberlain example shows is that no patterned principle of just distribution will be compatible with liberty. In order to preserve the pattern, which arranged D1, the state will have to continually interfere with people's ability to freely exchange their D1 shares, for any exchange of D1 shares explicitly involves violating the pattern that originally ordered it.

Self-Assessment Exercise 1

1. _____ principles can be deduced from Rawls's theory of social justice (a) 3 (b) 2 (c) 1 (d) 4

2. Entitlement theory of justice is associated with _____ (a) Nozick (b) Plato (c) Rawls (d) Marx

3. The famous argument used by Nozick for this theory of justice is _____

1.4   Social Justice and Some African States: A Practice Illustration

The question of distribution of benefits and burdens in Africa is critical, this is because there are multi-dimensional problems that the continent as a whole is battling with. It should be noted that the systems of social welfare are absent in most nations of Africa and where it exists it is not justiciable. Looking closely at the main cause (s) of the problem of social justice in Africa, it bothers mainly on the basic structure of the state. The structure of the present African state is not such that can promote or ensure equality or fairness in the distribution of benefits and burdens in the society. Oladipo, (2008:13) noted that the state, apart from being the centre for the exercise of all legitimate powers of coercion, also plays a very significant role in the allocation of benefits and burdens and, more generally, in the promotion of human interests. The ability of the state playing these dual roles shows how efficient and effective it is in matters that have to do with social justice.

From independence, what characterise most African states among others, include, inequality, which promotes conflicts, clashes, wars, disorder and lack of respect for the rule of law. Inequality weakens the foundation of social order, and promotes all forms of oppression and dispossession. This kind of state cannot be an instrument for the achievement of distributive justice in any given society.

The conflict that is experienced in most African nations today is an evidence of injustice in the way benefits and burdens are distributed among the people in the society. A close look at some of these nations would show the extent of injustice. Cote d'Ivoire, for instance, which gained independence from France in 1960 was known to be a beacon of stability with relative peace for many years, but conflict emerged in the contests for power and control of resources, which led to war between the north and south of the country. Also, the civil war in Sudan over the years has largely been the consequence of inequalities in the political

structures and the proportional sharing of income from oil resources, job opportunities and so on.

However, until 1994, South Africa was ruled by a white minority government using policy of apartheid, which disenfranchised and impoverished the black majority of the country. The legacies of apartheid, which includes low skills capacity, poverty, unemployment, wide income disparity and high incidences of crime, form till date, some of the consequences of violation of social justice.

Also, the violence that lasted for several decades in Rwanda located in Central Africa came as a result of historic and modern inequalities between the Hutu majority and the Tutsi minority. The aforementioned nations of Africa are few examples among others of the places where inequalities resulted in unending crises.

Following the foregoing, the concept of social justice in Africa is one aspect that should be given a serious attention. It is required in the order of priority that more attention should be given to how burdens and benefits would be distributed fairly to reduce tensions, which is the source of all forms of insecurity, communal clashes, ethnic crisis and wars in most African nations.

Self-Assessment Exercise 2

1. The main cause of lack of social justice in Africa is _____?

2. Mention some of the major consequences of violation of social iustice in Africa.

1.5   Summary

Thus far, the entire module has been dedicated to the discussion on social justice and its application to some African states. In this unit, we have considered the meaning, theories and objections to various theories of social justice. The idea of distributive justice, which is also known as social justice, following Aristotle is basically on how benefits and burdens are to be distributed in the society in such a way that will be morally justifiable. has given us an idea of the main concern of Robert Nozick's notion of justice. We started by looking at the scholars that have influenced the political philosophy of Robert Nozick so as to show that no philosopher can claim that the idea of his predecessors have had no influence over them. After this, a brief overview was the major concern of this chapter of *Anarchy State and Utopia*. This was followed by an exposition of the notion of justice and entitlement in Nozick's framework. The question of need is difficult to ascertain, the criteria of

merit is equally problematic, while that of equality is not error free. Following the position of Raphael (1976:184), "the claim for so called equality, they say, is a negative claim for the removal of arbitrary or unjustified inequality." Lack of structure for social justice in Africa remain the bane of the crises, insecurity, communal clashes and all sorts of war ravaging the continent.

1.6   References/Further Readings/Web Resources

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1.7   Possible Answers to Self-Assessment Exercise(s) within the content

Self-Assessment Exercise 1: 1. (b); 2. (a); 3. *Wilt Chamberlain argument*
Self-Assessment Exercise 2: 1. The basic structure of the State; 2. Low skills capacity, poverty, unemployment, wide income disparity and high incidences of crime

End of Module Questions

1.   The Rwandan genocide is a clash between _____ ethnic groups (a) Two (b) Three (c) Five (d) Four

Ans. a

2.   Nozick's famous *Wilt Chamberlain argument* is aimed at _____ (a) showing the limitations of just distribution (b)

showing the importance of just distribution (c) showing the problems of liberty (d) showing that Chamberlain is a libertarian

Ans. a

3.   Robert Nozick may be seen as a _____

Ans.: Libertarian/Neo-liberal

4.   _____ concerns with the distribution of benefits and burdens throughout a society, as it results from the major social institutions–property systems, public organizations, etc.

Ans. Social justice

5.   According to Plato "Justice is giving everyone their due" (a) True (b) Undetermined (c) Probably (d) False
Ans. d

MODULE 2   LIBERTY, LIBERALISM AND NOTION OF RIGHTS

Unit 1   ON THE IDEA OF LIBERTY

Unit Structure

1.1   Introduction

In this unit, we are going to be giving a special attention to the idea of liberty as a political concept. This unit is going to consider what liberty means through a series of conceptual clarification. In addition to this, the two popular types of liberty will be given close attention as well.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
• discuss the idea of liberty as a political concept
• differentiate between the two popular types of liberty.

1.3   Liberty: A Conceptual Analysis

The concept of liberty, which is equally known as freedom on one hand, in philosophical discourse is interpreted from different perspectives. In metaphysics, it is conceived as free-will, which raises a central question on whether humans are free in what they do or determined by external events beyond their control. In social and political philosophy, liberty is absence from any forms of constraint imposed by individual citizens or state. Liberalism on the other hand is a political doctrine that takes the freedom of the individual to be the central problem of politics. It must be noted that the interest of the individual's liberty is the core tenet of

liberalism, hence, the government is expected to protect individuals from being harmed and should not constitute a barrier to liberty.

Liberty, like other concepts in social and political philosophy is a highly debated concepts in terms of giving it a precise and succinct definition. It must be noted that, an attempt to source a definite definition, which elaborates on the real essence of what liberty entails has been a difficult task. However, on a general note, liberty is the absence of constraints in order to carry out one's plan (Lewis 1948:14). Following Lewis, "liberty is the natural creature's ownership of himself. It consists in the exercise by the individual of his natural capacity for deliberate decision and self-determined action, subject only to restrains which find a sanction in that rationality which all men claim in common. As such liberty is essential to personality." The point to note here is that, liberty as it were is a natural capacity possessed by individuals to carry out one's plan without any constraints that is imposed on us. Liberty, therefore, to a large extent gives us a right to exercise our will as long as it does not conflict with the rights of others. D.D Raphael (1990:56) in a similar view maintains that 'freedom' means the absence of restraint. A man is free in so far as he is not restrained from doing what he wants to do or what he would choose to do if he knew that he could. Thus, the ability to make a choice implies a kind of freedom, given that choice allows selection of one possibility among others. For choice to be made therefore, there must be several options, in other words there should be more than one possibility open to inform our choice.

Self-Assessment 1

1. _____ is a political doctrine that takes the freedom of the individual to be the central problem of politics (a) Freedom (b) Liberalism (c) Freewillism (d) Compatibilism
2. According to _____ "liberty is the natural creature's ownership of himself." (a) Moloney (b) Foresythe (c) Lewis (d) Pike
3. _____ is expected to protect individuals from being harmed and should not constitute a barrier to liberty.

1.4   Types of Liberty

1.4.1 Negative Liberty

There are notable philosophers that have discussed extensively on the bifurcation of the concept of liberty, namely; negative and positive liberty. Starting with the former, negative liberty is the absence of obstacles, barriers or constraints (Stanford, 2003). According to Irele (1999:120), following the views of J.S Mill in his book "On Liberty", he maintain that we exercise liberty when it does not do any harm to

others and this liberty does not give us license to engage in any acts that is detrimental to the society. In other words, we are free so long as nothing is imposed on us, thus we can exercise certain liberty so far we do not infringe on other's freedom. This nature of freedom is negative, this is because we may be free but we may not be able to exercise that freedom since there could be some material constraints that are not imposed directly on us either by the state or individuals but there could be also certain constraints brought about by certain societal arrangements. To this end, John Locke's (Rogers,1999:388) idea of liberty reiterate that everyone is in a perfect state of freedom, however, this does not mean that we may do anything we like because freedom does not equate with license.

In a similar view, Quinton Skinner (1988:2) notes that John Locke's *Two Treatises of Government* is often regarded as the classic statement of the English idea of negative liberty. This is largely because, Locke certainly insists that freedom must be regarded as one of our natural rights. He defines a free man as someone who enjoys a particular kind of opportunity that of being able to 'govern his actions according to the dictates of the law of reason' implanted in him by God. To this end, Skinner submit that as long as we focus on Locke's conclusions and ignore his presuppositions, it is possible to reinstate him after all as a founding father of the familiar doctrine of negative liberty (Skinner 1988:2).

Meanwhile, Isaiah Berlin (1969:15) in his article "Two Concepts of Liberty" conceives negative liberty as a condition of being free from certain constraints which could be internally or externally imposed. According to him, negative liberty is simply the area within which a man can act unobstructed by others. By this, he means that if I am prevented by others from doing what I could otherwise do, I am to that degree unfree (Berlin 1969:16).

However, D.D Raphael opposed the view that freedom should be considered as negative. According to him, freedom is too precious a thing to be merely negative. It is one of the highest values of human life, and therefore it must be something vital and positive (Raphael 1990:58). The root cause of negative conception of freedom was connected to the philosophical idealist, who through the metaphysical doctrine holds that the mental or spiritual is real and the material is not. For Raphael, this view held by idealism that 'ideas' stands as the main contents and activities of minds, as the main stuff of reality is not directly relevant to social and political theory. Most school of philosophical idealists argued that the ethical theory of self-realisation as the ultimate value, have a close connection with freedom, hence, if freedom is to be a value, it must have a connection with self-realisation.

Given this, D.D Raphael (1990: 58) maintains that freedom is to be defined in terms of self-realisation, which is a positive notion, not a mere negative one. For freedom to be a negative concept, then freedom cannot be the ultimate value. Whether or not we agree that the ultimate value is self-realisation, our common-sense definition of freedom does imply that self-realisation or self-development has a value. Liberty is a necessary condition of self-development and is valued as a means to self-fulfilment. To this end, Raphael insisted that self- development or self –fulfilment is not the same as liberty, nor does it imply that freedom is of little account because it is only a means to an end. The fact that something is a means to an end, and not an end in itself, does not make it of comparatively small importance. If it is a necessary means to a vital value, then it is itself vital.

1.4.2 Positive liberty

Positive liberty on the other hand is the possibility of acting - or the fact of acting - in such a way as to take control of one's life and realize one's fundamental purposes (Stanford, 2003). This idea of positive freedom to Berlin (1969:22-23) means being free to do something. Following his words, the 'positive' sense of the word 'liberty' derives from the wish on the part of the individual to be his own master, the wish to take decision, to depend on oneself and not external force and acts on own wills. In this same line of thought, Irele (1998:121) stress further that positive freedom is concerned with or refers to autonomy or self-mastery; it is concerned with the question "what, or who, is the source of control or interference that can determine someone to do, or be, this rather than that". In this case, it is related to the idea of what obstacles are placed on the individuals which make the realization of his/her freedom impossible. According to him, most of the obstacles are imposed through the social arrangement which can be removed. In effect, positive freedom stands for effective power, self-realisation, self-mastery, or autonomy, or moral or "inner" freedom. Are there other ways of conceiving liberty from the positive perspective?

Following the history, Skinner (1988:3) notes that the history of English moral and political philosophy records a number of different versions of this so-called positive theory of liberty. One version remains enshrined in the teachings of the Church of England about individual freedom and self-fulfilment. According to this view, our true nature will only be realized if we devote ourselves wholeheartedly to the service of God. To act in any other way is to remain in a state of enslavement to our baser ambitions and desires. However, a contrasting version of this theory was found among those who followed the teachings common to ancient Greek and later Christian thought. The doctrine in question- as St.

Thomas Aquinas expressed it, citing Aristotle – is that man is naturally a social and political animal. By this, it means that the fulfilment of our nature requires us to immerse ourselves in the affairs of our community.

Thus, a truly free agent will be recognisable as someone who engages in just such a life of public and political activity. This version of a positive theory of liberty, following Skinner has surfaced at several formative moments in modern English history as well. James Harrington (1977:169) opines to transform England into a self-governing republic declaring that the freedom of virtue of a citizen are one and the same. By this, Harrington means that self-realization, and thus our fullest liberty, can only be attained by way of engaging in virtuous acts of public service. To this end, various similar theories associated with Rousseau and Hegel were equally raised at centuries later, but the position of Skinner reveals that those who propose those theories only do so out of sinister ideological commitments. To Isaiah Berlin and others, the afore-mentioned theories are social mould, aimed at destroying autonomy and converting freedom into a form of slavery (Skinner 1988:4).

In a more practical sense, some political philosophers argue that positive freedom is more concerned with the distribution of material or economic resources. By this they mean that, (re) distribution of material or economic goods or resources to help those who are in need to enjoy their freedom in society are good on moral grounds. However, some theorists have argued that such (re) distribution of material or economic resources will infringe upon the freedom of others. Thus, become antithesis of negative freedom (Irele: 1998:122).

By way of evaluation of these two sides of the same coin, it can be argued that, while negative liberty is usually attributed to individual agents, positive liberty is sometimes attributed to collectives, or to individuals considered primarily as members of given collectives (Christopher, 2004). Also, to some philosophers the dichotomy between what the negative and positive liberty entails is just a semantic expression. Thus, when one claim to be free from one thing is he/she free from others? These and many more are various observations that the political philosophers are concern.

In another line of thought, Christopher (2004:223) in his argument on evil in analytical philosophy of religion, noted that negative and positive conceptions of freedom are not compatible. According to him, positive conceptions deny precisely what negative conceptions affirm, that 'doing what one wants' is the essence of freedom. So, either we have God-given freedom (to do what we want), but can consider the gift cruel, futile, worthless and destructive; or we can make it a criterion of

being 'freedom' that it is valuable, and leads to self-fulfilment. In which case the ability to do 'what we want' (which is God's excuse for evil) is not an instance of freedom, but slavery.

In this case the problem of evil simply becomes amplified into the problem of why God has allowed so much evil, which includes human slavery to their own desires. The point Christopher is making here is that from the debate on the problem of evil, and the idea of doing what we want ('free- will') is an amelioration and explanation for evil. Following this, Christopher maintain that in our quest for freedom we now find ourselves having to account for freedom ('doing what we want') in a similar way that we had to account for evil. We no longer have the problem of evil, but the problem of evil and freedom (our ability self- destructively 'to do what we want'); or even the problem of evil which includes within its scope the problem of this sort of freedom. Whether or not we can produce a theodicy which accounts for human freedom is neither here nor there, in that the revealing thing is that negative 'freedom' is exposed in all its nakedness and cruelty. Thus, from Christopher's view point what we call positive freedom undoubtedly repudiate the negative freedom. What can we learn from these ideas of scholars over the notion of liberty?

With all said and done, Skinner (1988:5) concludes that positive theories of liberty attempt to answer the question whether it is rational to be moral. And the suggested answer is that it is indeed rational, given the reason that we are moral agents committed by our very natures to the pursuit of certain distinctively human ends. However, this underestimates the importance of the distinctively Christian framework within which the traditions of English moral and political theory were originally formulated. Given this, Skinner concludes that there is no way of avoiding the conclusion that English discussions about the ideal of social freedom have embodied a continuing dialectic between the negative and positive ways of thinking about the concept itself.

Self-Assessment Exercises 2

1. The phrase: "Two concepts of liberty" (a) Munich (b) Berlin (c) Madrid (d) Manchester
2. _____ concludes that positive theories of liberty attempt to answer the question whether it is rational to be moral (a) Skinner (b) Rawls (c) Christopher (d) Aristotle
3. Locke certainly insists that freedom must be regarded as one of our _____ (a) Possible Rights (b) Artificial Rights (c) Divine Rights (d) Natural Rights

In this unit we have been to consider the idea of liberty as well as how some scholars have reacted to various ways of conceiving liberty. It is

clear from the analysis provided thus far that philosophically speaking, it is not enough to simply pass liberty as freedom. This is one of the contentions of this study in the section on liberty. The remainder of the unit then focused on two popular ways of conceiving liberty – negative and positive.

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1.7   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. (b); 2. (c); 3. Government
Self-Assessment Exercise 2: 1. (b); 2. (a); 3. (d)

UNIT 2   THE CONCEPT OF LIBERALISM

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   What is Liberalism?
1.4   Strands of Liberalism
        1.4.1   Classical Liberalism
        1.4.2   Modern Liberalism
        1.4.3   Contemporary Liberalism
1.5   Liberalism and Liberty: A Critical Evaluation
1.6   Summary
1.7   References/Further Readings/Web Sources
1.8   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In the preceding unit, the focus of discussion was on liberty. However, we attention will shift in the present unit to the notion of liberalism, which is a very important political concept. The two fundamental questions that the present discussion of this unity wishes to explore are: What is liberalism? What are the types of liberalism? Through these questions, this unit would have been able to make the idea of liberalism as simple as possible.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
• demonstrate commanding knowledge of liberalism;
• explain the popular strand of liberalism
• discuss some of the problems that scholars have levelled against liberalism and liberty.

1.3   What is Liberalism?

The concept of liberalism as a political philosophy during the enlightenment is a response to the growth of modern nations-state, which centralise the functions of government as the sole authority to exercise coercive power within their boundaries. However, a central thesis of contemporary liberalism is that government must be neutral in debates about the good human life (Weithman, 1999:503). Girvetz H.K et al. (2022) in an attempt to define liberalism note that, it is a political and economic doctrine that emphasizes individual autonomy, equality of opportunity and the protection of individual rights (primarily to life, liberty, and property), originally against the state and later against both the state and private economic actors, including businesses. John Locke,

one of the founder of liberalism in the eighteen century in his classic theories of liberal political thought strongly advocate individual political equality and also placed firm limits on the power of the state through his doctrine of natural rights. Locke claim further that government forfeited their right to rule if they infringed the natural rights of their citizens, provided a justification for armed revolution under appropriate condition ((Rogers,1999:389). The classical liberalism, which attaches great importance to economic liberty also traces its ancestry to Locke theory of the possibility of rightfully acquiring private property through labour.
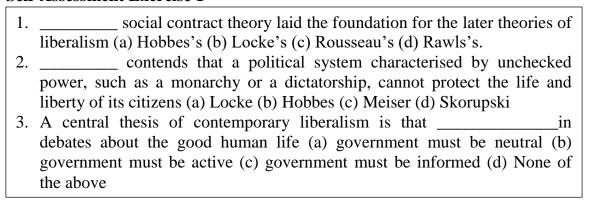
Meanwhile, Locke's social contract theory laid the foundation for the later theories of liberalism championed by Kant, whose valued theory of liberty is autonomy. According to Kant, the sort of liberty that should be most highly valued is autonomy. Agents enjoy autonomy, when they live according to laws, they would give to themselves (Weithman, 1999:503). Following the Kantian theory of autonomy was John Rawls, who set the stage for most contemporary theories of liberalism. His theory of 'original position' where those who entered agreement would do so by agreeing to principles that will guaranteed liberty for all, fair equality of opportunity, and ensuring that economic inequality benefit the least advantaged in the society. These autonomies exercised by citizens to choose what is good for themselves under the 'veil of ignorance' according to Rawls, would guarantee the establishment of a well-ordered society (Rawls 1971:4).

J.S Mill's liberalism is based on a utilitarian ideological leaning. He appeals to "utility in the largest sense, grounded on the permanent interests of man as a progressive being" (Skorupski, 1999:585). The famous principle that Mill enunciates in *On Liberty* is intended to safeguard the individual's freedom to pursue his goals in his private domain. In his further attempt to defend the liberty of every member of the society, Mill, as noted by Skorupski maintain that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own goods, either physical or moral, is not sufficient a warrant". The points made by Mill as stated here presents a defense of two principles of liberty; in the first instance, it enables individuals to realize their potentials in their own ways, and by liberating talents, creativity, and dynamism, it sets up the essential precondition for moral and intellectual progress (Skorupski, 1999:585).

Following the above, Meiser (2018:1) maintain that liberalism is based on the moral argument that ensuring the right of an individual person to life, liberty and property, this according to him, is the highest goal of government. The point here is that liberalism place emphasis on the

wellbeing of the individual and that alone is what makes a just political system. To this end, Meiser contends that a political system characterised by unchecked power, such as a monarchy or a dictatorship, cannot protect the life and liberty of its citizens. Therefore, the main concern of liberalism is to construct institutions that protect individual freedom by limiting and checking political power (Meiser 2018:1).

Self-Assessment Exercise 1

1. _____ social contract theory laid the foundation for the later theories of liberalism (a) Hobbes's (b) Locke's (c) Rousseau's (d) Rawls's.
2. _____ contends that a political system characterised by unchecked power, such as a monarchy or a dictatorship, cannot protect the life and liberty of its citizens (a) Locke (b) Hobbes (c) Meiser (d) Skorupski
3. A central thesis of contemporary liberalism is that _____ in debates about the good human life (a) government must be neutral (b) government must be active (c) government must be informed (d) None of the above

1.4   Strands of Liberalism

1.4.1 Classical Liberalism

The classical liberals, whose ideas could be dated back to eighteen century believes that liberty and private property are intimately related. They hold the view that an economic system based on private property is uniquely consistent with individual liberty, such that allows each to live her life-including employing her labour and her capital-as she sees fit (Stanford, 2022). Basically, the classical liberals established a connection between liberty and private property and this, means that private property effectively protects liberty, and no protection can be effective without private property. The point to note here is that the distribution of power that results from free market economy based on private property protects the liberty of subjects against the infringements by the state. Following F.A Hayek's (1978: 149) submission, "There can be no freedom of press if the instruments of printing are under government control, no freedom of assembly if the needed rooms are so controlled, no freedom of movement if the means of transport are a government monopoly" (Stanford, 2022).

In a similar view, Harrison and Boyd (2022), noted that Adam Smith in *The Wealth of Nations* (1776) laid the theoretical foundation in economics for what became known as 'classical' liberalism. By this, the free markets and trade unhampered by government interference, were fundamental to successful economic development. Free markets were

efficient, in that they led to the most productive use of resources and everyone got what economic rewards they deserved. They were 'free' in that economic decisions, agreements and commitments were freely made by individuals and ultimately beneficial to the whole society as market economies provided the social dynamic that ensured ever-greater prosperity for all (Harrison and Boyd, 2022). The point here is that the free market, which is outside government interference gives individual the opportunity to exercise their liberty. Thus, the classical liberalism place premium on the resources everyone can get as economic reward in a free market without government involvement.

1.4.2 Modern Liberalism

Modern liberals, which is known as 'new', 'revisionist', 'welfare state', and 'social justice' liberalism, challenges this intimate connection between personal liberty and a private property-based market order. Modern liberals held that the role of government is to remove obstacles that stand in the way of individual freedom. Following the idea of the British political philosopher T.H Green, who maintain that the excessive powers of government may have constituted the greatest obstacles to freedom in an earlier day, but by the middle of the 19th century these powers had been greatly reduced or mitigated. Green insists that the time has come, to recognize hindrances of another kind-such as poverty, disease, discrimination, and ignorance-which individuals could overcome only with the positive assistance of the government. The society, operating through government, was to establish public schools, hospital, allocating aid to the needy, and promotion of workers' well-being, for only through public support could the poor and powerless members of society truly become free. The new liberal programme was therefore, to enlist the powers of government in the cause of individual freedom.

In addition, Harrison and Boyd (2022) also noted that modern liberals, were moving in the direction of more rather than less state intervention. While also reflecting on the views of T.H Green in his lectures on the *Principles of Political Obligations* (1879-80), where he emphasized on a more tender understanding of human nature. Man, to Green, was not simply an asocial individual leading a life of rationally calculating self-interest, but was from the start immersed in society, from which his rights derived. The market economy and the policy of *laissez-faire* capitalism thwarted the values which liberals expounded so well. Classical liberalism had advocated a 'negative freedom' in which the external restraints to freedom, such as law, were reduced. Green argued that in reality the impoverished masses were effectively denied such freedom by factors of social inequality such as ill health, poverty and ignorance. Only collective, rather than individual, action could remove

these obstacles, empower the poor, and create a genuinely free society (Harrison and Boyd, 2022). Thus, the modern liberals advocates for the state intervention in the role of individual freedom.

1.4.3 Contemporary Liberalism

The contemporary or neo-liberalism began in twentieth century when its greatest enemies, fascism and communism, had been destroyed by the Second World War and the Cold War respectively. Liberal values, such as global free-trade system, moderate welfarism and the innovative technology gained global acceptance. The collapse of Soviet Union in the dawn of early 1990's, which put an end to Marxism, led to the revival of liberalism by a group of writers such as Karl Popper, Friedrich von Hayek, Isaiah Berlin, Ronald Dworkin, Milton Friedman, Robert Nozick, John Rawls and Michael Walzer among others. These scholars argue for a much-reduced state involvement and a greater role for private initiative and free market operations. This, according to Harrison and Boyd (2022) were very attractive to Western conservative politicians seeking a way out of the low growth and 'stagflation' (a term coined to describe simultaneous inflation and zero economic growth) of the 1970s and long-term American and British economic decline. In the 1980s most Western societies had apparently adopted classical liberal economic theories, usually now known as 'neo-liberalism,' but this is beyond the scope of the present inquiry. What then can be find to be philosophically problematic with this theories and discussion on liberalism which has occupied out attention thus far? This is the focus of the next section of this unit.

Self-Assessment Exercises 2

> 1. Pick out the odd choice: (a) Popper (b) Heisenberg (c) Hayek (d) Nozick
> 2. This unit has considered _____ strands of liberalism (a) 2 (b) 5 (c) 3 (d) 4
> 3. Basically, the _____liberals established a connection between liberty and private property (a) Classical (b) Non-Classical (c)

1.5   Liberalism and Liberty: A Critical Evaluation

Several objections have been raised against the concept of liberty and liberalism by critics. Freedom on one hand, according to some philosophers, is an illusion, and that no one is free, and that all our actions are determined by prior conditions (Hospers, 1997:154). On the other hand, critics have faulted liberalism for its emphasis on autonomy, this is largely because it poses challenges to tradition, community, political participation and matters that relates to regulation of individual

liberty when the need arises. Other critics are of the view that liberalism's focus on Western democracies leaves it unable to address the most pressing problems of contemporary politics. Contemporary challenges of secessionist, ethnic consciousness and religious intolerance call for a review of the position of the liberals.

Also, Will Kymlicka (1991:9) notes that liberalism is to be rejected for its excessive 'individualism'/'atomism', for ignoring the manifest ways in which we are 'embedded' or 'situated' in various social roles and communal relationship. In other words, Kymlicka emphasis is on the premise that liberalism undermine the importance of community and association, which alone nurture human flourishing at the expense of autonomy, which liberalism canvasses for promoting human dignity. In this same line of thought, Onigbinde (1999:223) maintain that the political system of libertarianism appears to be either a very brutal idea for a human community, leading to a wide scale neglect of the less fortunate among the population, or, an utopian idea, entrusting to free people the care of human problems that the government may not touch. The point is that in as much as the liberty of individual should be highly esteemed, the role of the community should equally not be undermine.

Following the above criticisms levied against the theory of liberty and liberalism, it must be noted that there is none of the argument posed against each of the concept that has not been responded to at one level or the other. Thus, philosophical engagement reveals the strength and weaknesses of all theories for the sake of clarity.

Self-Assessment Exercises 3

1. _____ notes that liberalism is to be rejected for its excessive 'individualism'/'atomism' (a) Kymlicka (b) Hayek (c) Popper (d) Rawls
2. Critics have faulted liberalism for its emphasis on _____
3. Contemporary challenges of _____, _____ and _____call for a review of the position of the liberals.

1.6   Summary

In this unit, we have examined the meaning of liberty, which is also known as freedom and absence of constraints. Some definitions are provided for further understanding, while the two sides of the divide to the concept of liberty, namely; negative and positive were discussed. Negative liberty is when we are free so long as nothing is imposed on us, thus we can exercise certain liberty so far we do not infringe on other's freedom. While positive liberty is for individual to be his/her own master, to take decision, to depend on oneself and not external

force and acts on own wills. Liberalism place emphasis on the wellbeing and protection of individual's freedom by limiting and checking political power. Objections to the concept of freedom states that it is an illusion, that no one is free, while liberalism should be rejected for its excessive individualism.

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1.8   Possible Answers to Self-Assessment Exercise

Self-Assessment Exercise 1: 1. (b); 2. (c); 3. (a)
Self-Assessment Exercise 2: 1. (b); 2. (c); 3. (c)
Self-Assessment Exercise 3: 1. (a); 2. Autonomy; 3. Secessionist/Ethnic Consciousness/Religious Intolerance

UNIT 3   NOTION OF RIGHTS IN POLITICAL THEORY

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   What does it mean to have Human Rights?
1.4   Features of Human Rights
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, our focus will move into discussing the idea of rights. It is a common thing to say that Mr. A has right in the same manner that Mr. B has rights. However, we find the two of them trying to argue or go to the court of law to see whose rights has been impeded or transgressed. So, the present unit intends to show that what rights are. It will also consider the features of human rights. This unit considers the idea or notion of rights mainly from the perspective of political theory.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss the idea of rights
•   explain the main feature of human rights
•   denote the context within which right applies to human as a political entity.

1.3   What does it mean to have Human Rights?

The concept of a right arose in Roman jurisprudence and was extended to ethics via natural law theory. According to Call Wellman (2001:796), just as positive law, the law posited by human lawmakers, confers legal rights, so the natural law confers natural rights on people. Social political philosophers view the concept of rights from different perspectives, there are those who identify natural rights with moral rights, while some limit natural rights to our most fundamental rights and contrast them with ordinary moral rights. In all, everyone possesses rights by virtue of status and it is on the premise of this status that rights are classified. Thus, civil rights are possessed by those who are citizens, women rights by virtue of being a woman, children's rights, animal rights and above all, human rights by being human.

Human rights, in its simplest form is an outlook that all human beings possess because they are humans. In other words, human rights are rights that are held by all human beings unconditionally and by extension they are inalienable. The word human right according to D.D Raphael (1990:104) is relatively recent and conceived as a revival and extension of ideas associated with natural law in the seventeenth and eighteenth centuries under the name of 'natural rights' and 'the rights of man'. These terms, which are interchangeably used in some European languages have turned to be called 'human rights' to avoid misunderstanding. Thus, in the contemporary world, the Universal Declaration of Human Rights as adopted by the General Assembly of the United Nations Organization in 1948, has made it a universal concept. To this end, the adopted charter has unveiled the treatment of persons in all states of the world by all organs of international community.

There are many types of rights as classified by political philosophers. Some of these are; legal rights, moral rights, positive and negative rights, active and passive rights among others. In the first instance, legal rights are rights that confers advantageous positions under the law of a society (Carl Wellman 2001:796). In other words, a legal right is a claim to performance or stay of action against private individual or the state. Secondly, moral rights, as seen in common literature stand in general for claims, powers and immunities (and other forms of warranty associated with the concept of rights) supported by ethical judgments, which attach intrinsic importance to these warranties (Amartya Sen, 1996: 152). They are rights that are based on moral principle and not explicitly stated in any legal system.

Also, positive rights are rights 'to other persons' positive actions, which implies that if there is a right, someone has a duty to do something. Whereas, a negative right entitles someone to other persons' omissions or forbearances. For every negative right one has, someone "has a duty to refrain from doing something" (Irele, 1999:124).

However, active rights, following Feinberg (1973:58) are "rights to act or not to act as one chooses", while passive rights are "rights not to be done to by others in certain ways". The former is also seen as rights to liberty, while the latter is noted as rights to security.

Following the above categorisation of rights as analysed, it must be noted that in most cases, claims to legal rights go side by side with duties. Given this, a clear-cut line of demarcation is quite difficult to draw between rights and duties. According to Irele (1999:125), while reaffirming the view of Feinberg, he established the link between the notion of rights and claim. By this, he noted that the concept of right can

be expressed in the language of claims, hence, "claiming is necessary to a full understanding of what rights are". The point we are making here is that, the concept of right leads to making a claim, and when such claim is made, it is directed to someone who may be duty bound to comply. Although, the notion of duty is also being argued not to be applicable in all cases.

Self-Assessment Exercise 1

1. The concept of a right arose in _____ jurisprudence and was extended to ethics via natural law theory (a) Roman (b) Jewish (c) English (d) Greek
2. Human rights, in its simples form is an outlook that all human beings possess because they are _____ (a) Worthy (b) God's Creation (c) Humans (d) Barbarians
3. Pick out the odd choice: (a) Legal Rights (b) Moral Rights (c) Sexual Rights (d) Active and Passive Rights

1.4   Features of Human Rights

What are the main features of human rights? How do they inform a political dimension to how humans can be said to have rights? Perhaps it is humbling to commence with the understanding that the concept of human rights has some essential features, which shows its defining characteristics. This cut across all types of rights mentioned earlier in this unit. Here are some of them.

Human rights are universal. All living persons ought to enjoy human rights irrespective of the kinds of person he/she may be, the nation or the religion the individual belongs. However, it should be noted that this idea of universality needs some certain qualifications in some instances. Take for example, the right to vote is only for the adult citizens or residents of a particular home country. In another sense, the human right to freedom of movement may be suspended temporarily from a person who is convicted of a serious criminal offence. And there are categories of people that their ability to enjoy the universality of human rights have generated arguments among philosophers. Some have argued on why treating all human beings equally since some are fools or idiots? To them, there should be a standard to judge those who deserve to enjoy human rights and those who are not? The question then is how best can we defend this view?

Human rights are absolute. Absolute rights as used here means that its holder cannot lose it by voluntarily giving it up. In another words, it is a right that may not be alienated even with consent (Ellerman 2010:571). According to Irele in line with Feinberg claims (1999:126), absoluteness

could be referring to some additional features which can be interpreted in three ways. The first interpretation could mean that all rights are "unconditionally incumbent within the limits of their well-defined scope". The second interpretation means that all those parties involved in the implementation of human rights should do their best for the values involved in human rights. They are ideal directives to the parties that would implement these ideal rights, that they should be honoured in all circumstances. For instance, if the state has taken a piece of land from an individual, the state should compensate the fellow since he/she has a right to her property. The last point is that human rights should be honoured without exception. If the right to freedom of speech would be protected, the limits of the right would be in consonance with the limit of what is specified permissible conduct and no infringement of the right in any form would be permitted.

Human rights have high priority. There are so many things competing for priority in all human societies, paramount among them is the matter of human rights. Maurice Cranston held that human rights are matters of "paramount importance" and their violation "a grave affront to justice" (Cranston 1967). If human rights did not have high priority, they would not have the ability to compete with other powerful considerations such as national stability and security, individual and national self-determination, and national and global prosperity. In this regard, all matters related to human rights are thus treated with utmost importance and accorded a high priority.

Self-Assessment Exercise 2

1. Human Rights are not absolute (a) Undetermined (b) True (c) False (d) Probably False
2. _____ persons ought to enjoy human rights irrespective of the kinds of person he/she may be, the nation or the religion the individual belongs (a) Human beings (b) Non-human beings (c) Non-human Animals (d) Human-Aquatic Cousins

1.5   Summary

In this unit, we have deliberated on the meaning of human rights and maintain that just as positive law, the law posited by human lawmakers, confers legal rights, so the natural law confers natural rights. The various types of rights have been put to fore alongside the obligations, duties and responsibilities attached. The fact that human right is a universal affair that extends to any member of the *Homo sapiens* has also been duly considered.

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1.7   Possible Answers to Self-Assessment Exercises
Self-Assessment Exercises 1: 1. (a); 2. (c); 3. (c)
Self-Assessment Exercises 2: 1. (b); 2. (a)

**UNIT 4   POLITICAL POWER AND POLITICAL
             SYSTEMS**

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   The Idea of Politics and Power
1.3.1   Types of Power
1.4   The Meaning of Political System
        1.4.1   Classification of Political System
        1.4.2   Classification of Political Parties
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, the agenda is to consider the idea of political powers and systems. In order for this to be achievable, this unit begins with the idea of politics and power. This is followed by the meaning of political system and the popular style of model of government. The unit also considers the idea of political parties and the types of party systems that there are.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss the meaning of politics and power
•   identify types of political system
•   explain the various types of political party systems there are.

1.3   The Idea of Politics and Power

The word "politics" is very broad and often prone to misinterpretation and misconception. One way to simplify this concept is to look at what it concerned itself about. Politics, on one hand, according to D.D Raphael (1999:30), concerns the behaviour of groups and individuals in matters that are likely to affect the course of government, e.g. in voting, in forming and running political parties, or in exerting influence in other ways on those responsible for the conduct of government. In this definition, D.D Raphael extended the concept of politics to cover that of the government and the reason for this is based on the fact that interpretation and enforcement of laws and policies rest on it.

Christopher Clapham (1985:1), in his book *Third World Politics an Introduction,* notes that politics everywhere, in its essentials, is much the same. People want security, wealth, and power, they have interest and ambitions which they try to achieve, and this in some ways conflict and coincide, with the interest of other people. Other groups also formed, seeking these same interests and by this, they gain power over others, either directly through the imposition of physical force, or indirectly through the organization of their surroundings in ways which reduce, and perhaps almost entirely remove, their capacity for individual choice. To this end, any form of organization, essential for the achievement of groups or individual goals and the management of conflict between competing interests, itself produces inequalities of power, and thus further the differences of interest between those who have more power and those who have less. The point to note here is that, politics deals majorly with interest and ambitions people and groups try to achieve through the gain of power. In this regard, according to Clapham, it is essentially is the same everywhere.

Power, on the other hand, is equally broad and is applied in various ways and fields of learning. According to Robert Dahl (1957:201), power is defined in terms of a relation between people, and is expressed in simple symbolic notation. This definition presents a picture of power as what is held between two or more persons. Heil John (1999:727) in another view, conceive power as a disposition; an ability or capacity to yield some outcome. In this regard, this position attempts a distinction between active and passive powers. Furthermore, the general notion of power involves the capacity to produce or prevent change. This change in social and political philosophy, narrows the conceptions of power and specify the nature of these changes. Social power is the capacity to affect the interests of agents while normative power is the capacity to affect their normative relations, such as their rights or duties (Routledge 2022).

Furthermore, according to Pfeiffer (1990) power is described as "the potential ability to influence behaviour, to change the course of events to overcome resistance and to get people to do things that they would not otherwise do. Politics and influence are the processes, the actions, the behaviours through which this potential power is utilized and realized" (Pfeiffer, 1990). In other words, power is the ability of a person to make others to do what is not in their desire to do. Power involves the idea of coercion and influence. Meanwhile, power is not the property of a person, it is relational. Political leaders use power as a means to achieve their intentions.

Although, the crucial focus of the study of political institutions is power and the different ways it is used, the concept of power is not only

associated with politics or the study of political science, it exists in all types of social relations. That is why Foucault (1969) said that "power relationships are present in all aspects of society". They are not limited to the relationship between the state and its citizens. All social actions involve power relations between persons, groups of persons, the employer and the employee, and so on.

Irele (1999:75-76), in an attempt to examine the nature of power states that the word 'power' is applied in divergent ways, not only in common parlance, but also in the various fields of learning, such as mathematics, physics, law, philosophy and theology. But the word power designates in general terms, the ability to bring about something. It could also mean influence. But in the main, the word "power" denotes the coercive method employed by those not entitled to our obedience. In this regard, power is related to so many things but majorly, it has to do with influence, enforcement and compliance to what one may not want to voluntarily do. Now, that we have been able to talk about politics, we can ask: What are the types of power there are?

1.3.1 Types of Power

Economic power: The proponent of this form of power is Karl Marx. According to him, economic power is fundamental to all powers. Economic power refers to the measurement of the possibility to control events by virtue of material advantage. He places economic power over all power, including political power. According to Rockmore (1999:555), Marx provided an unusually succinct description of economic structure, constituted by its relations of production, as the real foundation of society. He further depicted the economic structure as the basis of a legal and political superstructure corresponding to definite forms of consciousness.

*Social power***:** Social power is based on informal judgment, familial position, honour, prestige and patterns of consumption. For Max Weber, social power takes pre-eminence over other forms of power.

Political Power: Political power is based on relations with legal structure, party affiliation and extensive bureaucracy. Political power relates to the activities of the state which extends national boundaries.

Knowledge-power: According to Foucault (1969), power and knowledge produce each other, the two concepts, for him are intimately linked together, and he views power as an instrument of keeping close check on people and controlling them.

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Other types of power identifiable are: Military power, Ideological power, Distributional power, Collective power

Self-Assessment Exercises 1

1. D.D Raphael conceives politics as what concerns the behaviour of groups and individuals in matters that principally have to do with the___
2. Pfeiffer describes power as _____
3. Which two of these powers mentioned above in today's world can lead to the acquisition of others _____ and_____

1.4   The Meaning of Political System

Political systems are the formal and informal processes by which decisions are made concerning the use, production and distribution of resources in any given society. A political system is the set of formal legal institutions that constitute a government or state. In other words, a political system ensures the maintenance of order and rationality in the society. The political system is that part of the state apparatus that is in charge of the legislature and the executive. Ever since the time of Aristotle, the issue of classification of government has attracted attention of political scientists/writers, however, there is still no agreement on how best to classify the various forms of political systems discernable in human socio-political sphere.

A political system defines the process for making official government decisions. (Easton 1971: 37) A political system is a system of politics and government. It is a framework which defines acceptable political methods within a given society. It is a coordinated set of principles, laws, ideas, and procedures relating to a particular form of government, or the form of government itself. It is a system involving government and its politics which includes the members who are in power within a country. Political systems do not inherently require the institution of political parties to advance the politics of the political system. Political parties are formed after political systems are put in place.

1.4.1 Classification of Political Systems

Okunade (2001:102-106), attempts some classification of political systems. Some of the systems that will be considered in this section are as follows:

Monarchy: a form of government in which a family usually represent a dynasty, the family embodies the country's national identity. The monarch, who is the head exercises the role of sovereignty. There are

two types of monarchy in the world, these are absolute and constitutional monarchies. In absolute monarchy, the king or queen has total power. Under a constitutional monarchy system, the king/queen is subject to the constitution and works in agreement with the people's elected officials. The actual powers of the monarch may vary from purely symbolic to partial, and it could be completely autocratic.

Aristocracy: a government that places authority in the hands of a small privileged class, i.e. the highest class in the country, comprises of people of noble birth, usually holding hereditary titles and offices.

Democracy: a system of government by the whole populace or all eligible members of a state, usually through elected representatives.
The second classification is according to the pattern of power distribution among levels of government, that is, the degree of decentralization of political power. The systems under here are: Unitary, Federalism, and Confederalism.

Unitary: A unitary form of government is a government with only one level of governmental authority. The national or central government constitutionally possesses and exercises all authority. Such other powers and functions as are exercised by any other units within the state are mainly delegated. Characteristically, a unitary form of government by its very nature imposes a uniformity of laws and regulations on all sections of the country and enforced undivided loyalty to the national or central government.

Federalism: A federal government, unlike a unitary government, operates at two or three levels of authority. Each level is independent of, but co-ordinate with, the other in the exercise of its powers and functions. Essentially, there is a central or federal government and the government of the constituent units (constituted in forms of regions, states, provinces etc) making up the second level of government. By constitution, the citizens of a federal government owe direct allegiance to both the federal and central, including the unit government. Also, the functions of each levels of government as contained in the constitution are clearly spelt out and adherently followed for smooth running of each units.

Confederalism: This is a form of government where several federating units agreed to co-federate. In this case, each autonomous unit co-exist with others under separate laws guiding them.

Capitalism: This is a mode of socioeconomic organization in which a class of entrepreneurs and entrepreneurial institutions provide the capital with which businesses produce goods and services and employs

workers. In return the capitalist extracts profits from the goods created (Blackburn, 2005:53). Capitalism is seen as the embodiment of the market economy with its attendant economic opportunities; however, it is often being criticized for its inherent exploitation.

Socialism: Is a political system in which the (major) means of production are not in private or institutional hands, but under social control (Blackburn, 2005:343). Essentially, in socialism, the general concern is for people to have equal rights to various social benefits, such as health care, education and as well to reduce inequalities of wealth and power produced by the unrestricted operations of market forces. Socialism avoids the totalitarian implication of communism and operate within the liberal democratic constitution (343). Also, Onigbinde (1999:198) explains further that, socialism is that political economic arrangement in which the control of production and the distributions of goods and services of a society rest ultimately in the hands of those who provide the labour to produce such goods and services – "the workers". The emphasis here is on the workers as the main pillar behind the productions and distributions of the goods and services.

Communism: A socioeconomic system based on communal ownership and production of goods, communal self-government, and sometimes communal living. The popular maxim "from each according to his ability, to each according to his need" validate the disappearance of market mechanisms of exchange (Blackburn, 2005:68). Also, the term communism means the sort of community in which human affairs are carried out in a society-wide basis. By this, human affairs are considered to be affairs of the entire community, hinged on a cooperative, non-competitive, harmonious basis. Following this, it is argued that, the most well-developed idea of the communist political system arises out of Marx's theory of social development and in that system, communism refers to the culmination or completion of "prehumen" history (Onigbinde 1999:207).

1.4.2 Classification of Political Parties

The type of political system adopted in a country depends largely on the number of active political parties specified in the constitution. There are several options available for the country to explore for how electoral candidate emerge from political parties. Some of these will be briefly discussed in this section.

Zero-party System: a zero-party system operates where elections are conducted and contested based on personal attributes, capabilities and program presented by individuals. Candidates do not contest elections under the banner or on the platform of any political party.

One Party System: the one-party system can be described as a political system in which only one political party is legally and constitutionally allowed to operate or through gradual elimination of other political parties through electoral processes.

Two-Party System: the two-party political system can be defined as a political system in which only two political parties are legally and constitutionally allowed to operate in a political unit. Some countries, like the United States of America and Britain, have mainly two-party systems. The main two parties in America are Republican and Democratic parties, while in Britain they are Conservative and Liberal parties respectively. In Nigeria, during the aborted Third Republic, between 1992 and 1993 only two parties were allowed to operate. NRC (National Republican Convention) and SDP (Social Democratic Party)

Multi-Party System: a multi-party system can be described as a political system in which more than two political parties are allowed to compete for power at every tiers of the government. In those nations with multi-party systems, an election may result in no single party having a majority. As a result, two or more parties must join to make up such a majority. These parties form what is called a "Coalition Government".

Self-Assessment Exercise 2

1. What is a political system?
2. Mention 3 political systems and any 3 Economic and political ideology?
3. The most popular political party system in Europe, America and Nigeria, especially in the aborted Third Republic is_____
4. One of the advantages of political system in a multi-ethnic/religious society like Nigeria is _____

1.5   Summary

In this unit, we have been able to explore the idea of political power and system. The types of powers were discussed. The unit also briefly considers political parties and the kinds of popular political systems there are.

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1.7   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. Government; **2.** "The potential ability to influence behaviour, to change the course of events to overcome resistance and to get people to do things that they would not otherwise do; **3.** Economic and political power

Self-Assessment Exercise 2: 1. A political system is a system of politics and government. It is a framework which defines acceptable political methods within a given society. It is a coordinated set of principles, laws, ideas, and procedures relating to a particular form of government, or the form of government itself; 2**.** Aristocracy, Monarchy, Democracy and Capitalism, Socialism and Communism; **3.** Two-Party System; **4.** Unity

End of Module Questions

1.   Human rights are _____

Ans.: Universal

2.   _____are rights 'to other persons' positive actions, which implies that if there is a right, someone has a duty to do something

Ans.: Positive Rights

3.   Claims to legal rights go side by side with duties (a) True (b) False (c) Probable (d) None of the above

Ans. (c)

4.   _____ idea of liberty reiterate that everyone is in a perfect state of freedom

Ans.: John Locke

5.   D.D Raphael maintains that freedom is to be defined in terms of _____

Ans.: Self-Realisation

MODULE 3   POLITICAL OBLIGATION, CIVIL DISOBEDIENCE AND PUNISHMENT

Unit 1   POLITICAL OBLIGATION AND THE ORIGIN OF CIVIL SOCIETY

Unit Structure

1.1   Introduction

One of the age long questions, which form a core issue in political philosophy is, "Why does the citizen have a duty to obey the laws of the state?" Following the views of D.D Raphael (1999:175), a plausible answer to this all important question is that the citizen is obliged to obey the laws of the state because the state has a sovereign authority. Given this, some further questions arising from here is that of legitimacy: from where does the state derive its authority? Or where does the holder of sovereignty derive the authority to govern or administer laws? In response, many scholars contemplate that the legitimacy of a state or the powers of the sovereign are conferred by the agreement or consent of the people to form a state which, thus, imposes the moral obligation of obeying laws on them. To this end, just as the previous unit discussed the issues on politics and power, the focus of this unit is to enquire on the legitimacy of the authority of the state, the reasons for the justification of civil disobedience and the consequent problems of punishment among others. However, for the present unit, the core focus will be on political obligation and the ways that states emerge to demand obligations for humans.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:

- discuss the concept of political obligation
- explain the emergence of states from the classical social contract scholars
- examine why humans are subject/accountable to governments/states that emerge after human creation.

1.3   What is Political Obligation?

Political obligations are the ethical obligations of citizens of particular states or countries to obey the authorities and laws of their states while civil disobedience is the non-violent refusal to obey the governmental laws and policies of a state or country due to the perception that these laws and policies offend one's conscience or are morally objectionable or violate long established customs. Hasnas (2013:450) referred to political obligation as the duty to "conform one's behaviour to the dictates of the state". Green (1999:5) defines it as including "both the obligation of the subject towards the sovereign, of the citizen towards the state, and the obligations of individuals to each other as enforced by a political superior." Philosophers like Socrates, Aristotle, Hobbes, Locke, Rousseau, Aquinas, Rawls and a host of other contemporary thinkers have at different times discussed either or both of political obligation and civil disobedience or issues relating to them that other thinkers accept as the basis for the justification of these ideas (Velasquez, 2011). How do political philosophers examine/understand the idea of political obligation away from other forms of obligations?

Political philosophers have often distinguished political obligation from legal obligation and other types of obligation because of its moral underpinning. While obedience is the requirement demanded by moral laws, the question of the moral justification for obedience to law is the concern of political obligation. To act in violation of moral considerations in compelling the laws is taken as an infringement on the liberty and natural rights of the individuals within a state to whom the state owes its existence. Acts of civil disobedience are often argued for where the state's obligations to individuals fail as a result of governmental promulgation of laws and policies considered unjust by the individuals. In this respect, acts of civil disobedience have been known to have been engaged in where citizens perceive the inability of the state to perform its obligations to them or where the laws of the land and the policies of the government are perceived to have been against the natural rights of citizens. Because civil disobedience is considered in democracies in the modern world, the consideration of what the natural

rights are and how not to act in violation of these has been important in the discourse of political obligation and civil disobedience. Every human is considered as possessing certain inalienable rights accruing to them by virtue of being human. These rights are known as moral or human rights. Citizens who consider these rights violated by the state through the laws and policies of the state are usually the ones being involved in acts of civil disobedience, but this will be properly considered in the next unit.

Political obligation is the idea that the individual in a state is duty-bound to perform necessary obligations to the state which include obeying the laws, acting in preservation of the state (by defending it against internal breakdown as well as territorial aggression from external invaders), performing civic rights (such as voting) and, generally, being actively involved in everything that can ensure that the state functions well and fulfils the purpose of its existence. Political obligation deals with moral laws than the issues involving justice. It becomes problematic when considerations of whether or not citizens should perform their obligations to the state are involved. Political obligation has always been justified on the bases of the consent of the people of a state to form the state. As argued by Massimo Rezo (2012: 106-107):

The debate on the justification of political obligation often revolves around the contrast between transactional and natural duty theories. Transactional theories are those that ground political obligation in some kind of transaction or interaction that takes place between the state and its citizens. This interaction can take the form of a contract, as in traditional consent-based theories, or can be more indirect, as in the case of theories that ground political obligation in the duty to reciprocate for important goods provided by the state.

The debates on political obligation dates as far back as Plato and Aristotle. In *Crito*, Socrates refused to evade the punishment of death because of the consideration of his obligation to the state. He thinks that individuals are morally obligated to obey the state by obeying its laws even to the point of death since their education and development came by the laws. An example given by Socrates of these laws is that of the marital union which led to human procreation. By this, the trainings individuals receive from the state through their parent's shape who they become. To disobey the laws, then, is same as disobeying or ridiculing one's parents. Looking at this with respect to the state, the laws of the state make the individual who he is and to disobey the laws equates to dishonouring the state and jeopardizing its existence. What does Locke and other social contract scholars say concerning the state and the obligations citizens owe it? This is the crucial focus of the next section.

Self-Assessment Exercise 1

1. The debates on political obligation dates as far back as Plato and Aristotle (a) True (b) Probable (c) False (d) Undetermined
2. _____ are the ethical obligations of citizens of particular states (a) Political Obligations (b) Political Duty (d) Political Demands (d) Political Consensus

1.4 Political Obligation and the Emergence of States

How do states come into being? At what points do humans have an obligation toward the state? One important way of answering these posers is to commence with the views of the popular social contract theorists.

In later centuries, the social contract theorists, Hobbes, Locke and Rousseau, with their different hypothetical conceptions of the origin of the state maintained that individuals in the state have moral and political obligations to obey the laws of the state because these laws originate from the will of the individuals in the society. Hobbes argued that individuals in the anarchic state of nature, a state of crises with no enforceable standard of right and wrong in which the hands of every man was against every man and people lived in "continual fear, and danger of violent death; and this made the life of man, solitary, poor, nasty, brutish, and short" (Leviathan, i. xiii. 9). In this state and condition of fear and anarchy, through a pact, humans decided to form a state by surrendering to some individuals or a group of individuals whom they think can take care of their rights and interests and govern on their behalves.

1.4.1 Thomas Hobbes

The state of war could only end through agreeing to form a social contract. This means giving their freedom to a group of men called the sovereign or leviathan to protect them and their interests. Hobbes thinks that absolute authority belongs to the sovereign and whatever he wills becomes the law through which the state is governed. Although this is not same as affirming that the sovereign possesses a complete power over all affairs of the people since they are still free to act as they wish in their best interest, especially where the law of the state is silent. Through the social contract, humans become members of the civil society by transcending the anarchic state of nature.
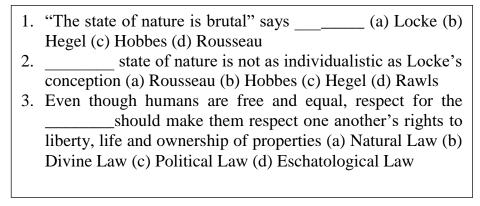
1.4.2 John Locke

In Locke's view, the state of nature is one in which people have the moral obligation to respect one another's rights rather than as a state in which a sovereign possesses absolute power and his wish is a law. Even though humans are free and equal, respect for the law of nature should make them respect one another's rights to liberty, life and ownership of properties. According to Russell (2005:570), the state of nature has a law of nature to govern it, which obliges every one; and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions (for we are all God's property). It is their agreement to respect one another's rights, protect one another's interests and escape the state of nature that warranted their forming a commonwealth to establish the unprejudiced authority that is able to adjudicate in matters involving them and redress injustice. Thus, the obligation of individuals to continue to obey the civil authority constituted by them through forming the commonwealth rests on the condition that the authority continues to protect the rights and interests of the individuals and justify the power bestowed on it by them. This sovereign or group of sovereigns are called Leviathan by Hobbes. If this is not the situation, and the people's natural rights are not protected, the sovereigns could be justifiably deposed.

1.4.3 Jean-Jacques Rousseau

Rousseau's conception of the state, unlike Hobbes' and Locke', is more organic. At the same time, it is not as individualistic as Locke's conception. Rousseau argues that individuals become subject to the general will, the collective will of the people, to protect their common good or common interest, by yielding their rights to the state. Thus, the existence of the state, which is a moral entity, depends on the union of the individuals constituting it and the laws of the state are those resulting from the general will. The end or purpose these laws were meant to serve is to guarantee liberty and equality of the individuals forming the state. As long as these conditions subsist, the union is intact. However, the social contract breaks down whenever the government administering the state takes over the roles of the citizens or abuses the power given to it. At this stage, citizens are morally obligated to disobey the state by acts of rebellion.

Self-Assessment Exercise 2

1. "The state of nature is brutal" says _____ (a) Locke (b) Hegel (c) Hobbes (d) Rousseau
2. _____ state of nature is not as individualistic as Locke's conception (a) Rousseau (b) Hobbes (c) Hegel (d) Rawls
3. Even though humans are free and equal, respect for the _____should make them respect one another's rights to liberty, life and ownership of properties (a) Natural Law (b) Divine Law (c) Political Law (d) Eschatological Law

1.5   On what Grounds is Political Obligation Justifiable?

Is it morally and politically justifiable to be obligated to the state? This is a crucial question which has commanded a lot of divergent views from scholars on the subject. Martin Rex (2003:44-46) argued that political theorists have thought of "other possible grounds of an obligation to obey law" due to their not being satisfied with the idea of consents as the ground of moral obligation. He concludes that the most common ground cited by scholars is that of derivation of benefit. In response to his questions, Rex cites the instance of a black student in South Africa in the apartheid era awarded full scholarship, on state support, and accorded all privileges in a state-owned institution. In later years, he will be expected to compensate the state by paying back the favour done him or the benefits he enjoyed in some "sort of appropriate responsive conduct".

Rex (2003) queried the measure of what would be proper for the student to do or what conduct would count as the right response. He might possibly be expected to give support to government's future school and scholarship programmes, either in cash or kind or both. The question provoked by this scenario will then be that of whether it may be possible to allege that being sponsored by the state translates to being under a moral obligation to obey its laws? If one thinks that the state's performing a duty of welfare to a citizen in terms of academic scholarship is good, will a black citizen of South Africa sponsored academically in the apartheid era be justified in obeying apartheid laws, even if he might possibly be justified in obeying other laws? Did this student not witness the affliction, vilification and denigration of his people as well as other races, say the Indians, under the apartheid system to understand the system enough and consider his sponsorship as a selective one where other black students ought to have been enjoying the same from the state? What if he perceived of the favour as his means of getting liberated so as to liberate his people? Supposing a white student who benefited more than a black student in the apartheid era

was the one involved in this situation too, would he also be morally justified to contribute to scholarship programmes or obey apartheid laws and see other races afflicted?

To Rex (2003), the "fundamental question here is whether the appropriate responsive conduct.., can reasonably be thought to include supporting the government and obeying all its laws." In other words, in a nutshell, does derivation of benefits from the state confer the moral duty to obey governmental laws on its citizens? Or, is obedience to governmental laws the appropriate response to derivation of benefits from government? One of the underlying things here seems to be the question of reciprocity of gestures. The question of the appropriateness or rightness of reciprocating gestures that promote the interest of some people while having overriding short- or long-term harm or negative consequences on the interests of people may be questionable. The difficulty of adjudging the enjoyment of benefits as the right response or that which compels or makes sacrosanct the moral obligation to obey the laws is difficult.

On his part, in what seems to add another dimension to the debate, Hasnas (2013:450) distinguished between the moral duty to obey the laws and the moral duty to submit to the state. He argued that the existence of the moral duty of obedience to law is not same as the existence of the moral duty to obey the state. He affirmed that the "law need not, and in fact, usually does not, consist in the command of a state authority. Despite theorists' nearly universal focus on legislation - the law consciously created by the agents of the state - most of the operative law that sustains our contemporary commercial society was produced by evolutionary "common law" processes. Because these evolutionary forces can run independently of the state, there can be an obligation to obey the law without there being a concomitant duty to submit to state authority." Going by these, the "existence of a moral duty to obey the law is perfectly compatible with the absence of legitimate political authority, and hence, with anarchy." Over the centuries, the above views largely contributed to the shaping of the conceptions of political obligation, but there has been no consensus.

Self-Assessment Exercise 3

1. _____ argued that political theorists have thought of "other possible grounds of an obligation to obey law" due to their not being satisfied with the idea of consents as the ground of moral obligation (a) Martin Rex (b) Martin Heidegger (c) John Locke (d) John Rawls
2. _____ distinguished between the moral duty to obey the laws and the moral duty to submit to the state (a) Hobbes (b) Hasnas (c) Hassan (d) Rex
3. From the reading done thus far, how will you consider the following proposition: "Over the centuries, the above views largely contributed to the shaping of the conceptions of political obligation, but there has been no consensus"? (a) True (b) False

1.6   Summary

In this unit, we have been able to consider the idea of political obligation. We have also been able to give attention to the notion of how states emerge to demand obligation from their political subjects. This unit has also briefly engaged the view of scholars who maintain that it is not decisive if humans are actually obligated to the state in some respects. The take-away from the entire discourse is that there is not scholarly consensus regarding how valid the state can be said to be justified to command political obligation from its citizens.

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1.8   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. (a); 2. (a)
Self-Assessment Exercise 2: 1. (c); 2. (a); 3. (a)
Self-Assessment Exercise 3: 1. (a); 2. (b); 3. (a)

UNIT 2   WHAT IS CIVIL DISOBEDIENCE?

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   The Concept of Civil Disobedience
1.4   Grounds for Civil Disobedience
1.5   Summary
1.6   References/Further Readings/ Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, the focus is on civil disobedience. What exactly do we mean by civil disobedience? What are the grounds or reasons why one can engage in civil disobedience? What are the scholarly views both on the idea of civil disobedience as well grounds upon which it is said to be permissive? These are the fundamental questions that the present unit wishes to explore in enriching the political dimensions to governance and politics.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss the meaning of civil disobedience
•   realise that civil disobedience is an important aspect of civil governance
•   relate with the grounds upon which civil disobedience can be justified.

1.3   The Concept of Civil Disobedience

Civil disobedience is the non-violent act of disobeying laws and policies of a country or state, on the grounds of morality or conscientious objection. This is with the intention of getting the government to repeal or change laws and policies considered unjust. Buttressing this, Rawls (1972: 320), conceptualized civil disobedience as:

…a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government. By acting in this way, one addresses the sense of justice of the majority of the community and declares that in one's considered opinion the principles of social cooperation among free and equal men are not being respected. A preliminary gloss on this definition is that it does not require that the civilly disobedient act breach the same law that is being protested. It allows for what some

have called indirect as well as direct civil disobedience. And this a definition should do, as there are sometimes strong reasons for not infringing on the law or policy held to be unjust. Instead, one may disobey traffic ordinances or laws of trespass as a way of presenting one's case.

The grounds for actions of civil disobedience include that humans have certain inalienable rights that are violated by the laws or policies that are resisted in performing the actions. Henry David Thoreau coined the term "civil disobedience". Thoreau had refused to pay taxes in protest against the Mexican war, slavery and the acts of human rights violations against the native Indians in America. Proponents of civil disobedience always site government's lack of respect for the rule of law as the reason for their actions. What is known as civil disobedience as propounded by Thoreau was made popular by the works of Leo Tolstoy (1828-1910) and Mohandas Gandhi's protests. Tolstoy argued in favour of people's rights to refuse to take up arms where they find governmental policies and state laws objectionable and against their conscience.

Self-Assessment Exercises 1

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1. What is civil disobedient?
2. Thoreau had refused to pay taxes in protest against _____and_____
3. Gandhi's activities and views fuelled later protests in America by _____ and _____

1.4   Grounds for Civil Disobedience

As seen earlier, among other things, the question of the justification of political obligation raises question concerning the justification of civil disobedience. Civil disobedience is usually considered in relation to a democracy. This is why it is usually justified in relation to democratic societies in modern times. However, what counts as civil disobedience may be considered when dealing with other non-democratic forms of government. This is the respect with which customs and laws of the people, in say a monarchical society, come into the discussion.

Civil disobedience is done consciously in reaction to violations of customs and social norms that are either backed up by law or are accepted to the people over time. Adeigbo (1993:68) identifies some conditions of non-revolutionary intent of civil disobedience. In the first instance, according to him, in breaking the law, the civilly disobedient does not act merely out of self-interest or seeks to affirm some principles in private. Rather his breach of law is aimed at directing

public attention to constitutional defects and, for the most part, in underlining some conceptions of political justice. The ostensible aim of civil disobedience cannot be to gain a private or personal advantage. Secondly, that the violation of the law must be seen as an affirmation of the general duties of citizenship in so far as by his willingness to accept the legal consequences of law violation, he aims to promote respect for the legal order.

From Rawls' views, as a way of justification, acts of civil disobedience are motivated by selflessness, with the best interest of one's state in view. They are equally motivated by factors as political considerations, the consideration of what counts as offenses to ones' conscience, focus on changing unjust laws and policies, especially laws and policies perceived to be capable of having effects on the public, thoughts on non-violence, satisfaction of the conditions for attaining justice, social cooperation, fairness and equality within the state.

Furthermore, civil disobedience has always been justified on the ground that the moral basis of the state's obligations to its citizens are violated. In this respect, disrespect for the laws and policies that are considered unjust or offensive to human conscience is promoted. There have been arguments concerning the justifiability of civil disobedience in a democracy on the ground of constituting a threat to the rule of law. Obviously, acts of civil disobedience are taken as morally justified rather than being legally justified. Civil disobedience is further justified based on other considerations and conditions such as those discussed below.

Civil disobedience may be justified when the laws of a state are/ have become difficult to change and they are upheld by governments or rulers against public interest. For instance, at different times, slavery laws in America as well as the segregation laws in both America and South Africa did not change but got worse. To get these to change in America, in those days, Thoreau disobeyed the policies of government by refusing to pay tax while King, Jr., acted in civil disobedience to the laws and was jailed. The indigenous peoples of South Africa disobeyed the racist laws too and many were either jailed or killed. Each of these people suffered the consequences of their actions in order to ensure that the laws were repealed or set aside.

Legal concerns have always been part of the reasons for the justification of civil disobedience. Thus, being emboldened by moral considerations, attention to legal grounds necessitates or justifies acts of civil disobedience. For instance, the segregation policies and laws that King, Jr. and the other protesters reacted to in America were a violation of the long-established American constitution. The laws and policies were

implemented contrary to the doctrinal provisions of the constitution. Particularly, the Jim Crow laws promoting segregation were in operation in the South American states. Challenging the laws in court eventually led to various Supreme Court rulings against them in favour of the constitution. However, these laws were still being enforced long after the United States Supreme Court declared them illegal.

The Jim Crow laws and segregation policies clearly violated the ideals of freedom and equality of all humans which are necessary for the sustenance of their moral rights, dignity and happiness. The Supreme Court rulings and civilly disobedient acts opened opportunities for black emancipation in the same society where white supremacists mentally and physically dominated the blacks by frustrating their attempts at utilizing the opportunities provided by the constitution for all free men. When unjust situations result, by the violation or undermining of the social and political equality of people in a state, the situations are often accompanied by unjust laws and policies. This is why people are involved in acts of civil disobedience in order to draw attention to issues and situations needing redress so and have a just and well stabilized state.

Self-Assessment Exercises 2

> 1. Civil disobedience is usually justified in relation_____
>
> 2. Civil disobedience is done consciously in reaction to _____
>
> 3. Civil disobedience may be justified when the laws of a state are/ have become

1.5   Summary

This unit considered the meanings of political obligation and civil disobedience. It argued that political obligation is the moral duty of individuals within a state to obey the government and the laws while civil disobedience is the non-violent act of refusing to obey the laws and policies of government on the consideration that the laws and policies are morally offensive. Civilly disobedient persons are always ready for the punishments attending their acts of disobedience. Over many centuries, various scholars discussed political obligation and civil disobedience as well as justified their necessity. We discussed these justifications in the unit.

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1.7   Possible Answers to Self-Assessment Exercise(s)

Self-Assessment Exercise 1: 1. Civil disobedience is the non-violent act of disobeying laws and policies of a country or state, on the grounds of morality or conscientious objection; **2.** The Mexican war, slavery and the acts of human rights violations against the native Indians in America; **3.** Martin Luther King, Jr., and James Bevel in their civil rights protests against racism in the1960s

Self-Assessment Exercise 2: 1. To democratic societies in modern times; **2.** Violations of customs and social norms that are either backed up by law or are accepted to the people over time; **3.** Answer to question 3. Difficult to change and they are upheld by governments or rulers against public interest.

UNIT 3   PUNISHMENT AND CRIMES IN CIVIL SOCIETY

Unit Structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   The Meaning of Punishment
1.4   What is Crime?
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, we are going to discuss the idea of crime and punishment in a civil society. What makes an action criminal? Are there ways through which a criminal act can get the proper punishment? What makes a punishment the right one for a crime? These are some of the crucial questions or issues that the present unit will explore.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   explain the idea of crime and punishment
•   discuss the context to which an action is a crime; and
•   examine why punishments are important following a crime.

1.3   The Meaning of Punishment

There is not univocal definition of punishment. There are as much definitions of punishment as there are scholars who have theorised on the subject. In this vein, B.S. Cayne defines punishment as "a punishing or being punished", while punish means "to cause to suffer for some offense committed" (Cayne, 1992:810). According to Michael Tunick, "the first and primary aim of punishment is to provide the most comprehensive critical introduction into the philosophy of punishment" (Tunick, 2014:26). C.L. Ten, defines punishment as "as a deprivation, taking away from offenders what they value – their freedom, or some of their money when they are fined" (Ten, 1991:366).

The value of punishment resides in its presentation of punishment in terms of a system of rules, and that it distinguishes punishment from other kinds of unpleasantness. Another definition of punishment proposed by Garland is "the legal process whereby violators of criminal law are condemned and sanctioned in accordance with specified legal categories and procedures" (Garland 1990: 17). Bean (1981: 5) argues

that punishment, in the sense of a sanction imposed for a criminal offense, consists of five elements:

1.   It must involve an unpleasantness to the victim;
2.   It must be for an offense, actual or supposed;
3.   It must be of an offender, actual or supposed;
4.   It must be the work of personal agencies; in other words, it must not be the natural consequence of an action; and
5.   It must be imposed by an authority or an institution against whose rules the offense has been committed. If this is not the case, then the act is not one of punishment but is simply a hostile act. Similarly, direct action by a person who has no special authority is not properly called punishment, and is more likely to be revenge or an act of hostility.

Self-Assessment Exercise 1

1   In one sentence, attempt a definition of punishment.
2   Highlight the five elements that are central to what makes an act punishable.

1.4   What is Crime?

According to B.S. Cayne, crime is "a violation of the law especially a serious one" (Cayne, 1992:229). The term 'crime' has so much dimension and understanding. For Paul Tappan, "Crime is something that is against the law" (Tappan 1947). However, if we take a step back from this literal interpretation to consider the broader social processes that help give meaning to crime and its control, it quickly becomes apparent that there is much more to the question than simply referring to what is written in the law (Brodeur & Ouellet, 2004:1). Meanwhile, Comack and Brickey (1991: 15) remind us, "law can be said to have a distinctly *social basis*; it both shapes – and is shaped by – the society in which it operates" (emphasis in the original). Indeed, before a criminal statute is even contemplated, there are a whole host of social forces and events that both shape how we conceive of a particular behaviour and influence our decisions on how to respond. In addition, many of these social forces continue to shape our response strategies well after the social wrong becomes part of our legal lexicon. How society thinks about crime and the individuals deemed to be responsible for criminal behaviour influences law enforcement practices and the penalties administered. Why is it that certain behaviour is deemed sufficiently problematic to warrant being labelled a crime? Why are certain behaviours considered crimes while other behaviours are not? These are the questions that we shall examine from the lens of utilitarianism.

To ask "what is a crime?" is certainly not a novel endeavour. For decades academics from numerous disciplines (such as law, sociology, and criminology) have struggled to understand various aspects of this question. From studies that examine the factors contributing to the enactment of certain prohibitions or the impact of law and its enforcement, to studies that focus on the events that precede the decriminalization of certain behaviour, there are countless examples of scholarly work dedicated to exploring the nature of crime and its control (Des Rosiers & Bittle, 2004:vii).

Legally, crimes usually are defined as acts or omissions forbidden by law that can be punished by imprisonment and/or fine. Murder, robbery, burglary, rape, drunken driving, child neglect, and failure to pay your taxes all are common examples. However, as several eminent criminologists recently have noted (Sampson & Groves, 1989); (Gottfredson and Hirschi, 1990), the key to understanding crime is to focus on fundamental attributes of all criminal behaviours rather than on specific criminal acts. Instead of trying to separately understand crimes such as homicide, robbery, rape, burglary, embezzlement, and heroin use, we need to identify what it is they all have in common. Much past research on crime has been confounded by its focus on these politico-legal rather than behavioural definitions. The behavioural definition of crime focuses on, criminality, a certain personality profile that causes the most alarming sorts of crimes. All criminal behaviours involve the use of force, fraud, or stealth to obtain material or symbolic resources. As Gottfredson and Hirschi (1990) noted, criminality is a style of strategic behaviour characterized by self-centeredness, indifference to the suffering and needs of others, and low self-control. More impulsive individuals are more likely to find criminality an attractive style of behaviour because it can provide immediate gratification through relatively easy or simple strategies. These strategies frequently are risky and thrilling, usually requiring little skill or planning. They often result in pain or discomfort for victims and offer few or meagre long-term benefits because they interfere with careers, family, and friendships. Gottfredson and Hirschi (1990:256) assert that this means the "within-person causes of truancy are the same as the within-person causes of drug use, aggravated assault, and auto accidents." Criminality in this sense bears a problematic relationship with legal crimes. Some drug dealers, tax cheats, prostitutes and other legal criminals may simply be business-people whose business activity happens to be illegal. Psychologically, they might not differ from ordinary citizens. Almost all ordinary citizens commit at least small legal crimes during their lives. Nevertheless, Gottfredson's and Hirschi's hypothesis is that the vast majority of legal crime is committed by individuals a general strategy of criminal activity (Gottfredson and Hirschi, 1990: 255).

This conception of crime explains the wide variety of criminal activity and the fact that individuals tend not to specialize in one type of crime. It also is consistent with the well-established tendency of people to be consistent over long periods of time in the frequency and severity of crimes they commit. Even executives who commit white collar crimes probably are more impulsive, self-centred, and indifferent to the suffering of others than those who do not take advantage of similar opportunities.

Focusing on criminality rather than political-legal definitions also allows us to finesse the perplexing problem of why some acts (e.g., marijuana consumption) are defined as crimes while similar arguably more damaging acts (e.g., alcohol consumption) are not. These issues, central to conflict theories and critical theories of crime, are important. However, because they focus on systematically deeper power relations between competing interest groups, they seldom provide feasible policy alternatives and tend to reinforce perceptions of crime as an insolvable problem. What we want to do here is see if the human ecological approach can lead us to some practical strategies for controlling crime. Human resources can have material, symbolic, or hedonistic value. In crimes such as thefts, individuals take material resources such as property from another person without his or her knowing cooperation. Those who commit crimes such as narcotics trafficking and gambling attempt to obtain money that can be exchanged for material resources. In crimes such as assaults not associated with theft, sexual assaults, and illicit drug use, people obtain hedonistic resources that increase pleasurable feelings or decrease unpleasant feelings. Political crimes such as terrorism or election fraud attempt to obtain symbolic resources such as power or prestige.

Self-Assessment Exercise 2

1   Crimes usually are defined as acts or omissions forbidden by law that can be punished by _____ and/or _____.
2   The following but one is a crime (a) Kidnapping (b) Computer Networking (c) Bricklaying (d) Uber Driving
3   In crimes such as _____, individuals take material resources such as property from another person without his or her knowing cooperation (a) Kidnapping (b) House-breaking and entry (c) Theft (d) Highway robbery

1.5   Summary

In this unit, we have been able to provide a conceptual analysis of the notions of crime and punishment. The unit has shown that there is indeed a reason why some actions pass as criminal and why punishment is usually adduced. It is also important to add that the unit cited some useful instances of what kinds of moral agency or acts can be said to be criminal.

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1.7   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: 1. Punishment may be seen as a deprivation, taking away from offenders what they value – their freedom, or some of their money when they are fined; **2.** The five elements of punishment are: 1. It must involve an unpleasantness to the victim; 2. It must be for an offense, actual or supposed; 3. It must be of an offender, actual or supposed; 4. It must be the work of personal agencies; in other words, it must not be the natural consequence of an action; and 5. It must be imposed by an authority or an institution against whose rules the offense has been committed

Self-Assessment Exercise 2: 1. Imprisonment/Fine; 2. (a); 3. (c)

UNIT 4   THEORIES OF PUNISHMENT AND CAPITAL PUNISHMENT

Unit Structure

1.1   Introduction

For the present unit, two fundamental tasks are to be attained. In the first attention is given to the various theoretical underpinnings for punishment. This is highly important for the sake of adding to the idea of punishment in the previous unit. The second agenda of this unit is to consider the notion of capital punishment and discuss how crimes of this nature can be punished. This unit will use as instance, the view of the English scholar, Jeremy Bentham on the subject.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
- discuss the various theories of punishment and what they mean
- explain the notion of capital punishment
- examine the idea of capital punishment from the angle of Jeremy Bentham.

1.3   Theories of Punishment

There are several theories and sub-theories of punishment which may be reduced to the following: The Retributive Theory; The Reformative Theory; The Deterrent Theory; The Protective Theory; and The Legal Vindicative Theory (Aigbodioh, 1999:50-6). In this sub-section that follow, we shall be giving a very brief synopsis of each of them.

1.3.1 The Retributive Theory

This theory of the basis of punishment is one of the oldest. According to J.A. Aigbodioh (1999:50) "the theory has as its spring-board, the Mosaic Law of "an eye for an eye and a tooth for a tooth"". The reason is that it consists in paying back the offender of the law in his or her own coin by re-establishing what Mel Thompson calls "the equal balance of justice that has been outraged" (Thompson, 1994:151-4).

Despite the call for the barbaric nature of this theory of punishment for encouraging retaliation, it is on void of sympathisers. Retribution is not cruel because it treats a criminal with dignity (Murphy, 1979:83-4). It gives him chance to expiate his crime by suffering. The doctrine of desert, fairness, and proportionality reject cruel, barbaric, and uncivilized punishment of vengeance theory. Retributive theory puts substantial limitation on punishment. When the law and State inflicts harm on the wrong doer in fair manner, how retributive theory is called reflection of vengeance theory. Law condemns the act of criminal by awarding punishment, if incidentally that satisfy the vengeance of victim of crime, the retributive theory cannot be criticized for that because they never claimed it. Hegel has rightly objected by saying retributive is nothing but concept of vengeance is superficial (Harris, 1997:60).

1.3.2 The Reformative Theory

Clearly, the reformative theory has a utilitarian underpinning for it maintains that punishment "is a corrective means by which the offender may be reformed and made to be of good behaviour in the future" (Aigbodioh, 1999:52).

This approach rejects the deterrence and retributive elements of punishments and impeccably advocates reformative approach on simple idea that, 'we must cure our criminal, not kill them' (Salmond, 2008:95).The reformative theory is reaction to the deterrent theory, which has failed to take into consideration of the welfare of criminal. The real objection to reformation is simply that it does not work (Salmond, 2008:95). High hopes of reformative theory never materialized and met with repeated failure. Reformation requires combination of too many disciplines and their attempt has failed to deliver goods yet hunt is on for right combination to make theory fruitful (Fleming, 1978:109). Researchers have concluded that no known or effective methods for reformation of convicted criminal had been demonstrated "we know nothing about deterrent or reformative effects of any mode or variety of treatment" (Michael & Adler, 1933:49).

The reformative approach to punishment has the propensity to make an innocent suffer the punishment of the actual guilty which makes the utilitarian justification for this approach to punishment highly questionable (Aigbodioh, 1999:53).

1.3.3   The Deterrent Theory

Clearly, as the name implies, the justification of punishment is goaled towards making other possible occurrence(s) of the crime impossible. This idea is very commendable but it is not without problems as well. It is not short of followers. The act that takes away the power of committing injury is called *incapapaction*, is in the form of remedy operated by the fear should be the object of punishment which is called deterrent theory. Bentham went to the extent of depriving the criminal's power of doing injury by awarding death sentences (Bentham, 1995:209). Bentham treats the committed offences as an act of past, that should be used as opportunity of punishing the offenders in such a way that the future offences could be prevented (Bentham, 1995:167). Glanville Williams says deterrence is the only ultimate object of punishment. This kind of threat is commonly described as 'specific' or 'individual' deterrence. Specific deterrence works in two ways. First, an offender would be put in prison to prevent him from committing another crime for specific period. Second, this incapacitation is designed to be so unpleasant that it will discourage the other offender from repeating his criminal behaviour. When individual deterrence is used as means to send message across society is called 'general' or 'community' deterrence. The higher percentage of criminal being caught and punished would enhance the credibility of sanctions.

Despite its large followership, it is disputable if deterrence serves as a better justification for the acts of punishment. According to the *Vanguard*, between January and December, 2014, Saudi Arabia enforced capital punishment by death on 87 persons who committed crimes such as drug trafficking, apostasy, rape, murder and armed robbery. The Interior minister was quoted to have justified this on the basis of deterrence. However, by May 2015, 84 persons have already been executed (Vanguard, 2015).

1.3.4 The Protective Theory

This theory expresses the view that although punishment may have the accidental functions of being retributive, reformative and deterrent, its main function is to protect or safeguard the society from those who do not conform to the societal forms, rules and laws (Thompson, 1994:159); (Aigbodioh, 1999:54-5). Even utilitarians like Bentham advocated the preventive remedies which tend to prevent offences

(Bentham, 1995:167)). That some individual need to be restrained is hardly debatable proposition. Even staunchest advocate of the reformation theory would not contend that a convicted unreformed dangerous criminal ought to be without restraint while he is being reformed. The target of sanction as incapacitation is criminal himself and protection comes by physically separating criminal from the victim and potential victim that denies him ability and an opportunity to commit further crime.

The protective philosophy is the best mode of punishment because it serves as effective deterrent and also useful preventive measures. The effective of preventive theory much depends upon promptness and proportion factors (Fleming, 1978:171). The delay in inquires or investigation by the public authority makes sanction ineffective. The effectiveness of sanction is further scaled down as courts grants bail to accused on the ground that accused presumed to be innocent until guilt is proved. There is considerable dispute, as to who should be restrained and how long. Confinement should involve the least restraint needed to furnish reasonable protection against crime (Fleming, 1978:173). The naked truth is that protection can never be absolute. Certain amount of crime is inevitable and society must take chance against them. Effective incapacitate depends upon various factors like, criminal's history, background, and personality. In spite of all these things it is not possible to predict accurately whether or not a particular criminal will repeat crime. Incapacitation should not be disproportionate, wasteful and expensive (Fleming, 1978:175). Unless restraint is either permanent or is coupled with a meaningful rehabilitative program imprisonment will not restrain criminal conduct, but will merely postpone it (Fleming, 1978:175). Incapacitation affects ability and an opportunity to commit criminal act, but has no influence on emotional and criminal intent and expectation of profit. Therefore, incapacitation is being temporary than permanent.

1.3.5 Legal Vindicative Theory of Punishment

This theory of punishment merely exists to justify the legal system. In other words, the dictum here is the 'rule of law'. This theory states that the proper function of punishment is to vindicate the law or to earn respect for the law so that the law would have its full force, and command obedience of the citizenry (Thompson, 1994:160). It is assumed here that the basis for punishment is that people will respect the law.

Self-Assessment Exercise 1

1. The oldest punitive theory is _____
2. This theory of punishment merely exists to justify the legal system (a) Punitive (b) Legal Vindicative (c) Protective (d) None of above
3. The following but one is a punitive theory (a) Reformative (c) Distributive (c) Retributive (d) Deterrent

1.4 Crime and Capital Punishment: The Perspective of Jeremy Bentham

Capital punishments are those kinds of punishment that the life of the offender is punishable consequence to pay for this crime. Death by hanging or firing squad for killing another person or peddling hard drugs like cocaine are capital crimes that carry capital punishment.

Punishment, according to Jeremy Bentham, ought to possess an attribute of proportionality. In fact, he offered thirteen rules for determining that proportion within (McHugh, 2008:1). Punishment is regarded, within Bentham's utilitarian thought, as an 'evil' because it causes pain. Traditionally, that utilitarian characterization is regarded as an extrinsic one because it is based upon its subjective affect upon people, rather than any inherent, internal quality that might be qualitatively claimed for it. However, in other examples of Bentham's published writings on the subject, a subtly different tone appears to emerge. This essay will argue that there is a strain of thought, emerging in the later publications of Bentham (especially as modified by some of his immediate disciples) which increasingly characterizes punishment as an intrinsic evil that, in a hypothetical, ideal world, ought to be avoided, entirely. That ideal offers a theoretical basis for a stronger emphasis upon proportionality in penal law within early utilitarian thought that can have particular application for current penal policy (McHugh, 2008:5).

In *Introduction to the Principles of Morals and Legislation*, Bentham appears to assume that penal policies and punishments are necessary (or, at least, inevitable) so they should be created and applied only in the interest of advancing a greater 'good' through the maximization of total pleasure within society. But because Bentham is perceived to have embraced a hedonistic interpretation of pleasure, as prominent scholars such as G. E. Moore (1960:253) have contended, his calculations also are perceived to have accepted the relativism of individual definitions of pleasure. This interpretation is based upon a further contention that pleasure, itself, is extrinsically good (even if different sensations of pleasure do not even feel alike) (Brandt, 1959:303-7), regardless of the motivation or form. These calculations could, legitimately (and

admittedly within his own writings), extend to punishment derived from motivations that a subjective moral appraisal might conclude to be 'base' or 'cruel', including in terms of the approval of certain severe types of punishment. That emphasis can, understandably, create the impression that punishment should be tolerated as a means for reaching this maximum pleasure and be justified solely upon that basis, rather than upon considerations of subjective and unproven 'higher truths', including, conceivably, matters of actual guilt or innocence and logical inconsistencies in its actual application (Feldman, 1997:448-466).

However, within the later published and less well-known treatise, *The Rationale of Punishment*, Bentham makes reference to a more detailed treatment of this subject that would provide a more considered application of utility to penal law and practice. That book presents these ideas in a slightly different, but arguably more profound, manner. This subtle difference of approach between these two texts might offer a persuasive response to critics of the reductionist-based preferences of utilitarians. Furthermore, it might offer a way to address matters of guilt and innocence (and other 'moral' considerations) in a way that challenges the ethical claims of advocates of retributivist approaches to punishment (McHugh, 2008:6). It also could undermine, simultaneously, the perception of Bentham's calculations of pain and pleasure as being based upon a strictly hedonistic appreciation of this central concept, though some critics would remain sceptical of any claims that Bentham, or any utilitarian, would be motivated by a desire to lessen or eliminate the pain of punishment as a primary objective. It has been argued, for example, that advocates of penal reform of the European Enlightenment merely sought to replace the brutality of medieval forms of punishment with a different, and more efficient, form of 'penal tyranny', based upon a rationality derived from the labour needs of the emerging market economy (Foucault, 1993:75).

The Rationale of Punishment is a collection of related manuscripts that were assembled and published in English only shortly before Bentham's death. Although many of the original manuscripts can be dated to the mid-1770s (around the same time as *An Introduction to the Principles of Morals and Legislation* was published), the first edition of *The Rationale of Punishment* was not published until a much later date (McHugh, 2008:7).

The fundamental premise of this book is provided by Bentham's re-articulation of the foundation for all calculations of the utilitarian tradition. The competition that really exists for members of society, according to this utilitarian premise, is between alternative perceptions of 'pleasure'. In other words, the competition is not between 'pain' and 'pleasure' but among a variety of 'pleasures', some of which may

impose 'pain' upon other members of society or upon society as a whole. Bentham's utilitarian thought identified the most basic competitive conditions of human persons and, by extension, civil society as 'pleasure' and 'pain'—an approach that is consistent with an interpretation of pleasure as a 'common currency of advantage' (Sugden, 2008:239-62)

Reconciling competing 'pleasures' is the key to public policy. The pursuit of pleasure by some persons can inflict pain upon other persons. A business transaction can result in a better deal (and more pleasure) for one participant than another one (McNamee, Sheridan, Buswell, 2001:173). A crime can bring pleasure to the criminal but, also, can impose pain upon not only the immediate victims but to society (especially in terms of feelings of fear and insecurity), in general. Therefore, the state has a responsibility to prevent the greater pain to individual and societal victims of crime by imposing the pain of punishment upon the people who commit these acts. However, that necessary imposition of pain should not be excessive; it should alleviate the pain that the initial act (or the potential of a repeat of that act) imposes but it should not be more painful than necessary because maximizing pleasure for as many persons as possible is the ultimate responsibility and goal of the state—an interpretation that is essential to Henry Sidgwick's seminal analysis of utilitarian thought and that offers an underlying theme of Bentham's evaluation of cases that are not suitable for punishment (McHigh, 2008:8).

Therefore, punishment should be 'proportional' to the crime. 'Proportionality' is, by definition, the establishment of a proper relationship between two or more competing conditions or goals. It involves a trade-off for the utilitarian that should result, ultimately, in more 'pleasure' than 'pain', both quantitatively and qualitatively. It should provide pleasure for the greater number of people but it also should provide the greatest possible quality of pleasure. By Bentham's own admission, this calculation of the quality of pain and pleasure is not an easy one. A qualitative evaluation became, of course, even more essential to the later utilitarianism of John Stuart Mill, though it was no less simple to assess, precisely (Mill, 2001:27-34). Nonetheless, it is one that must be applied to each agent who is included in these calculations. The fact that he was so emphatic in designating punishment in this way may be very significant. Bentham also used the word 'evil' in reference to punishment in other sources, most notably in *Introduction to the Principles of Morals and Legislation*. However, his use of this word within The Rationale of Punishment was more pointed and consistent. This fact, and the tone of those subsequent manuscripts and book that were promised, might reveal the eventual intent, on Bentham's part, to

treat punishment not only as a different category of pain but, perhaps, a qualitatively different kind of pain.

Bentham, in using this word 'evil', might not have been designating pain as being, merely, instrumentally bad. This possibility exists, even though the explanation of this 'evil' as 'resulting to an individual from the direct intention of another, on account of some act that appears to have been done, or omitted' appears to confirm that instrumentalist application, while a more predominant interpretation of a utilitarian definition of punishment remains dependent upon 'concrete circumstances or consequences' (Ducasse, 1953:83-5). Nonetheless, Bentham's use of that word also may, arguably, connote an intrinsic valuation and designation of punishment as a condition that transcends a conventional understanding of 'pain'. Under that circumstance, its complete elimination (and not merely its reduction in relationship to various pleasures or its role in advancing certain types of societal pleasures) would constitute an ideal goal, in itself, even if its implementation or the threat of its implementation ultimately could result in an instrumental good. That intrinsic (in addition to the instrumentalist) designation offers a more profound meaning to Bentham's claim that '[a]ll punishment being in itself evil, upon the principle of utility, if it ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil' (Bentham, 2008:23). A belief that Bentham's intent was to treat punishment as intrinsically evil may have prompted Dumont's note at the end of the chapter regarding the analogy between crime and punishment. This note suggests that the articulation of these analogous punishments (including horrific forms of torture, dismemberment, abuse, and execution) was intended to be merely instructional of the repugnance of punishment, generally, and, perhaps, 'only as fit subjects for ridicule and caricature' Bentham, 2008:62-3). So, it is possible to argue that the ideal utilitarian society, from this perspective and calculation, is one in which this state-produced 'pain' is entirely eliminated. Therefore, the government of such a perfect society is one that has conceived of a means to promote 'pleasure' in a way that not only eliminates causes and consequences of 'pain' but, also, avoids, if at all possible, inflicting any 'pain' as an end in itself. That goal is, of course, practically unattainable. But it does serve as the measurement of relative success in terms of applying utilitarian principles regarding matters of public policy, including penal policy. The government that is able to promote more pleasure and less pain than another government is, therefore, superior in this respect and comes closest to achieving this utilitarian ideal. This overall approach conceivably could be compared to the interpretation known as 'negative utilitarianism', which stresses the promotion of the minimization of pain over the maximization of pleasure. Theoretically, that negative utilitarian interpretation could lead to certain extreme conclusions, such

as the elimination of all life in order to avoid any pain that would inevitably accompany human existence. That comparison could be understandable, especially given the sort of description of this interpretation of utilitarian thought provided (Smart, 1973:28-30). However, the argument of this essay emphasizes an absolute standard that is based upon the ultimate practical acceptance of the imposition of pain (in the form of punishment) as an unavoidable and, thus, acceptable (though undesirable and imperfect) necessity of penal policy (McHugh, 2008:11-2).

Therefore, in this particular context, this essay is not advancing a negative utilitarian thesis, despite any superficial resemblance. A logical conclusion can be drawn, in this respect, concerning the ideal goal of utilitarian philosophy. This conclusion could be reached, analogously, through an external, non-utilitarian philosophical appeal to the ancient Platonic conceptualization of 'forms'. This unarticulated suggestion of the theoretical possibility of an abstract, ideal utilitarian society, free from any punishment, is, admittedly, unattainable in the 'real' world of Plato's 'shadows'. But it is attainable to the philosopher as a rationally conceived 'form' that serves as a measurement of relative success or failure to achieve certain values. Plato's normative quest for an ideal republic that cannot be experienced but only perceived through a superior application of reason, offers a potentially appropriate model for understanding Bentham's apparent, though unstated, allusion to this modern version of an unattainable philosophical and political goal, especially as revealed through the 'metaphor of the cave' (Wilde, 1968). Hypothetically, a state that can promote pleasure in a manner that avoids ever imposing pain arguably offers a similar standard for evaluating the ultimate ethical appropriateness of all penal actions of government.

Self-Assessment Exercise 2

1. Bentham is focused on the proportion between crime and punishment (a) False (b) True (c) Both (a) and (b) (d) None of the options listed
2. Bentham is convinced that penal policies and punishments are necessary for the smooth running of the state (a) False (b) True (c) Both (a) and (b) (d) None of the options listed

1.5   Summary

In this unit, our discussion has focused over the various theories that aim to justify punishment. Five of these theories were given attention. Afterward, the chapter was also able to consider the position of Bentham concerning capital punishment from his utilitarian perspective

in order to deepen our understanding over how scholars have given attention to the issues of crime and punishment.

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1.7 Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise1: 1. Retributive Theory; 2. (b); 3. (c)
Self-Assessment Exercise 2: 1. (b); 2. (b)

End of Module Questions

1. Rousseau's conception of the state, unlike Hobbes' and Locke', is more _____

Ans.: Organic

2. Political Obligations and legal obligations are similar: Yes or no?

Ans.: No.

3. _____ may be justified when the laws of a state are/ have become difficult to change and they are upheld by governments or rulers against public interest

Ans.: Civil disobedience

4. Give two examples of capital punishment: _____ and _____

Ans. Murder and importation/Exportation of Hard Drugs

5. The reformative theory has a _____underpinning for it maintains that punishment (a) Utilitarian (b) Deterrent (c) Deontological (d) Metaphysical

Ans. (a)

**MODULE 4   DEMOCRACY AND THE
                        DEMOCRATISATION PROCESS IN
                        AFRICA**

Unit 1   Meaning and Ideal of Democracy
Unit 2   African Development and the Challenges of
                  Democratisation

UNIT 1   MEANING AND IDEAL OF DEMOCRACY

Unit structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   The Meaning of Democracy
1.1.1 Liberal Democracy as the Most Popular Strand of
              Democracy
1.4   The Basic Ideals of Democracy
1.5   Summary
1.6   References/Further Readings/Web Sources
1.7   Possible Answers to Self-Assessment Exercises

1.1   Introduction

Democracy is a form of government that allows the citizens to be
involved and participates in the decision making. The term democracy
appeared in the 5th century B.C. to describe the political system that
operates at Greeks city-state. It is a form of government that is opposed
to individuals or group of people holding to power like it obtains in
Monarchical and other related systems. This unit is devoted to
examining the meaning of democracy and the basic ideals or what is
also known as ingredients of democracy.

1.1   Intended Learning Outcomes

By the end of this unit, you will be able to:
•   discuss the meaning of democracy
•   explain the fundamental tents and practicability of liberal
          democracy
•   examine the basic ideals of democracy.

1.2   The Meaning of Democracy

In the contemporary world, democracy has become the most acceptable
form of government, mainly because of its ideals that affirm the right of

people to participate in the social, economic and political affairs of their countries. Going by the etymology of the word, "democracy" comes from two Greek words, *demos* ("people") and *kratein* ("rule"), this literally means "people rule". However, "the people", in the understanding of the ancient Athenians usually associated with the origins of Western democracy, referred to the body of citizens, which consisted mainly of adult free males of indigenous birth. As such, foreign residents, women, children and slaves were denied the right to participate in the affairs of the *polis* ("city-state"). Thus, rule by the people was direct, in that legislative decisions were taken by the people at mass assemblies (Irele 1998, 83).

In addition, as Frederic Kenyon explains, elective offices were filled by lot:

There was … to be a council, consisting of four hundred and one members, elected by lot from among those who were over thirty years of age; and no one might hold office twice until everyone else had his turn, after which they were to cast the lot afresh. If any member of the council failed to attend when there was a sitting of the council or of the assembly he paid a fine … The council of Areopagus was guardian of the laws and kept watch over the magistrates to see that they executed their offices in accordance with the laws (Kenyon 1952: 554).

Following the above, all male, freeborn Athenians were equal before the law, and enjoyed freedom as stipulated by the law. They had equal right to be heard in the sovereign assembly of the state before it could arrive at decisions. In the strength of this, Irele (1998, 83) notes that, all important trials were held before popular courts whose members were chosen by lot. Thus, in essence, Athenian democracy allowed the people to make their own decisions about the way they were to be governed rather than having a small group of people making decisions on their behalf.

However, over the centuries, the concept of democracy has acquired a variety of interpretations. For example, during the Cold War, both leading Western and Eastern powers and their satellites laid claim to being the ones practising genuine democracy. There is therefore evident difficulty in arriving at a scholarly consensus on a precise definition of 'democracy'. We also need to take seriously George Orwell's caution:
A word like democracy not only [has] … no agreed definition, but the attempt to make one is resisted from all sides. It is almost universally felt that when we call a country democratic we are praising it: consequently the defender of every kind of regime claims that it is a democracy and fears that they might have to stop using the word if it were tied down to any one meaning (Orwell 1968, 132-133).

Nevertheless, in pursuit of a degree of clarity, let us consider some other definitions of democracy that scholars have offered. Following Robert Dahl, Okunade (1998, 129) defines democracy as a system of government in which the authority to exercise power derives from the will of the people. According to him, democracy "maximises opportunities for both political contestation and political participation." Going by this view, democracy is highly responsive to all citizens. Similarly, Irele follows Durkheim's conception of democracy in a dialogic framework (Irele 1998, 16; Durkheim 1957, 91). Durkheim's analysis of democracy is premised on the conviction that issues that concern the democratic political community ought to be subject to collective debate and scrutiny (Durkheim 1957). Claude Ake (1992, 1) views democracy as popular power, that is, rule by the *demos*:
This was the conception of the Greeks who 'invented' the theory and practice of democracy. That was the meaning of democracy during the French revolution, which is the midwife of modern democratic practice. It remains the classic definition of democracy, rephrased with poignant simplicity by a famous American as "government of the people, by the people and for the people".

Also, in a broader application of democracy, Hague and Harrop (2001:16) notes that, democracy is a form of government offering a workable solution to the fundamental political problem of reaching collective decisions by peaceful means. But democracy is also an aspiration. So we cannot understand democracy simply by looking at examples which are against the democratic ideal, the fact is that most secure 'democracies are found wanting. Thus, the tension between high ideals and prosaic reality has itself become part of the democratic condition. It is on this note, Robert Dahl (2000:38) has rightly pointed out that there are two dimensions of democracy, first, as an "ideal, goal, aim or standard", and second, as a "practice". In this regard, it is obvious that democracy in theory is different from its practices.

However, as a concept, William (2001: 213), maintain that democracy is a system of government characterized by the participation of the people through their freely elected representatives, by the recognition and promotion of the basic rights of citizens, including the rights of vulnerable groups such as the minorities. It basically has to do with the ability of the people to control decision making. Following this, Olayiwola (1984:14) argues that democracy ideally is a system of government which is representative of all peoples and interests within a state. It is the rule of the majority in which the interest of the minority is protected.

Smith B.C (2003:251) in a similar view with Pinkney (1993:1) and Diamond et al (1990) defines democracy as a system of government to provide meaningful and extensive competition between individuals and groups, highly inclusive levels of political participation in the selection of leaders and policies, and civil and political liberties sufficient to ensure such competition and participation before it is classified as democratic, though they acknowledge that countries satisfy such criteria to differing degrees, and that rules and principles may be contaminated by practice.

According to Ryan (1998:392), democracy is a system of decision-making in which decisions are made on the basis of a majority vote, or are made by people whose right to make them is acquired as the result of securing a majority in a friar election. One justification is essentially external, and instrumental, and takes the form of an argument to the effect that allowing the mass of people in a society to play a large part in their own government is indispensable if they are to be governed justly. To cap it all, Giovanni Sartori (1968:120) had earlier observed that:
The standard definitions provided by most authors describe democracy as a system based on competitive parties in which the governing majority respects the rights of minorities. The discussion is focused on the concept of representation majority rule, opposition, competition, alternative government, control, and the like-hardly ever on the notion of self-governing peoples.

To this end, the definitions of democracy as enumerated above, reveals that this concept has many dimensions and aspect. Given this, there are certain principles and ideals, which are central to the meaning of democracy as enumerated above. These and few others shall be examined for further understanding of the concept of democracy.

1.3.1 Liberal Democracy as the Most Popular Strand of Democracy

At the present time, the most popular form of democracy in a significant part of the world is liberal democracy. According to Wingo (2004, 451), in the United States, and in many European countries, the wedding between liberalism and democracy took place about 200 years ago. In that union, there were some concessions by democracy to political liberalism, and liberalism to democracy. Thus, in the United States of America, political liberalism and democracy form an organic whole to such an extent that we do not even see the two as being distilled from different traditions (Wingo 2004, 452). Liberal democracy emphasises the rule of law, separation of powers, and the guarantee of the rights of individuals to pursue happiness as they deem fit.

In addition, Macpherson (1965, 29) highlighted the birth, in the West, of the possessive individual of Thomas Hobbes, and the articulation of two complementary concepts of the human person, namely, the atomic individual as (a) a consumer of utilities, and (b) the maximiser of his or her capacities. In the West, the human person began to be seen as an individual endowed with the right to accumulate property in freedom. Iwuchukwu (1997, 87) explains that this view gave birth to a new form of government with strong emphasis on: (a) popular participation, even if by means of representation, and (b) class/party politics which reflects the underlying class struggle, and this form of government came to be known as liberal democracy. It was liberal because of its emphasis on the rights of the individual, and democratic because it contained elements that promoted self-government, and that had been present in ancient Greek democracy.

However, there are forms of democracy that stand in opposition to the liberal model. For example, there is the Marxist model, which, as Macpherson explains, "contains an ideal of human equality, not just equality of opportunity to climb a class ladder, but such an equality as could only be fully realised in a society where no class was able to dominate or live at the expense of others" (Macpherson 1965, 24). Thus the Marxist approach lays emphasis on the economic condition of the citizens. According to Marx, for any society to be democratic, it must be classless, with the means of production under the control of the workers. For Marx, then, without the economic equality of all the citizens through the elimination of economic classes, there can be no true democracy (Marx and Engels 1977, 398).

Yet another model of democracy is one that was highlighted by Macpherson (1965, 28) to be suitable for the developing nations of Africa and the rest of the Third World. This model lays emphasis on freedom from starvation and ignorance, and stresses grassroot participation and collective decision-making in an environment free from class struggle. Central to this model of democracy is a one-party form of government, which, in the view of Western liberal democracy, is undemocratic. However, the assessment by liberal democracy of this governance model fails to take account of the true meaning of democracy. In this regard, Macpherson observed: "… a one-party government may properly be called democratic if there is full intra-party democracy, if party membership is open, and if the price of participation in the party is not a greater degree of activity than the average person can reasonably be expected to contribute" (Macpherson 1965, 28).

Self-Assessment Exercise 1

1. Going by the etymology of the word, "democracy" which was coined from two Greek words, *demos* ("people") and *kratein* ("rule"), this literally means _____
2. Robert Dahl defines democracy as a system of government in which the authority to exercise power derives from_____
3. According to Ryan, democracy is a system of decision-making in which decisions are made on the basis of _____ or are made by people whose right to make them is acquired as the result of securing a _____

1.4   The Basic ideals of democracy

What are the basic or fundamental features of democracy? The ideal of democracy as a government by the people sounds engaging and preferable. But are there states in which all the people govern themselves by actively participating in the day-to-day management of the affairs of their polity? It appears that the answer to this question is negative. Among states that are often considered to be highly democratic, it is hardly possible to find one in which the people govern themselves directly. As earlier noted, the only state which experimented this ideal to a significant degree was the ancient Athenian city-state, with its form of direct democracy by a minority, namely, the freeborn male adult citizens. However, in most liberal democracies, there is a form of indirect system of governance, in which representatives are chosen through periodic elections.

Similarly, according to Busia (1975, 453), democracy is founded on respect for every human being, implying subscription to racial equality. Following this view, the notion of equality entails a set of ideas that apply to various contexts, these include, political equality, equality before the law, equality of opportunity, economic equality, and social equality. However, the most important among these is equality in the voting system, which requires that each vote is given the same weight, without discrimination against any one on grounds such as gender, race, religion, or economic status. It is against this backdrop that Busia (1975: 453) maintains that, the wide agreement on this principle was evident in the unanimous condemnation by African states of minority Caucasoid governments in South Africa, the former Southern Rhodesia (now Zimbabwe), and the Portuguese colonies of Angola and Mozambique, in all of which there were tensions between those who enjoyed full rights and those whose rights were denied.

In addition, there ought to be freedom of speech in a democracy, with citizens at liberty to express their views on government policies, and on

whatever else is of concern to them as individuals, and to their society at large. There also ought to be freedom of press and religion. All these liberties presuppose the equality of all citizens. Furthermore, it is an ideal of democracy that the government be answerable to the people, public office holders are required to be accountable for their policies and programmes. The reason for this is that all what democracy has to offer through a collective decision is majorly dependent on the participation of the people through their freely elected representatives. In this regard, the issue of equality of political, social and legal rights and privileges, freedom of expression and association and promotion of basic rights of citizens, including the rights of vulnerable groups such as the minorities are all contained in the principle of representation.

In the light of the ideals of democracy listed above, it may be concluded that although, it is a difficult task to arrive at a universally acceptable definition of democracy, but any governance system committed to the pursuit of these ideals can be considered to be democratic.

Self-Assessment Exercises 2

1. The ideals of democracy include, political equality, equality before the law, equality of opportunity, economic equality, and social equality. However, the most important among these is_____
2. Freedom of speech is another ideal of democracy. Citizens are at liberty to express their views on government policies, and on whatever else is of concern to them as_____, and their-_____

1.5   Summary

In this unit, we have been able to discuss three main doctrines. The first concerns with the meaning of democracy. The second focuses over the popularity of liberal democracy and the effort to export it from the First World to the Third World. The last part of this unit has looked at the basic or fundamental features of democracy.

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1.7   Possible Answers to Self-Assessment Exercise

Self-Assessment Exercise 1: 1. "People Rule"; 2. The will of the people; and 3. A majority vote and Majority in a fair election

Self-Assessment Exercise 2: 1. Equality in the voting system; 2. Individuals and Society at large

UNIT 2   AFRICAN DEVELOPMENT AND THE CHALLENGES OF DEMOCRATISATION

Unit structure
1.1   Introduction
1.2   Intended Learning Outcomes
1.3   Democracy and the African Quest for Development
1.4   Democracy in Africa or African version of Democracy?
1.5   Francis Fukuyama on the Challenges of Democracy in Africa
1.6   Summary
1.7   References/Further Readings/Web Sources
1.8   Possible Answers to Self-Assessment Exercises

1.1   Introduction

In this unit, the development question which has grappled many African scholars is going to be examined from the perspective of democracy. One of the fundamental questions which the present unit wishes to answer is: Is there any way that African development that can arise from democracy? This is the preoccupation with one of the first section. In the second and third sections, some of the peculiar problems facing democracy in Africa will be considered. The conviction of Francis Fukuyama (1992) concerning the practicality of democracy in Africa will also be considered. These are intended to show that the democratisation ideals in Africa may have been compromised.

1.2   Intended Learning Outcomes

By the end of this unit, you will be able to:
- discuss an in-depth conception of the relationship between democracy and development in Africa
- identify the challenges faced by the democratisation process in Africa
- examine the position of Francis Fukuyama concerning why democracy fails in Africa.

1.3   Democracy and the African Quest for Development

The interconnection between democracy and development cannot be undervalued. Does this not mean that there is a connection between democracy and development in ways that it can have a positive influence in Africa?

This is a reality as the advanced states of the world such as the USA, France, England, India, among others. Of the countries examined here, the case of India is the most astounding. India used to be one of the

most awkwardly underdeveloped regions of the world, but all of a sudden that part of the world began to experience economic growth that is evident in the lives of her billion population. It cannot be overlooked that democracy plated a great role in the development of this country.

In his 2008 work, Obiyan et al was speaking on democracy when he claims that "development must therefore, be more than just the expansion of income and wealth. Its focus must be on people" (Obiyan et al 2008). These scholars argue for human development which has two sides: "the formation of human capabilities, such as improved health, knowledge and skills and the use of people to make acquired capabilities – for leisure, productive purposes or being active in cultural, social and political affairs" (Obiyan et al;2008). As a way of corroborating the foregoing, Alina Rocha also tells us that:

The emergence of democracy is endogenous to the process of economic and social development—there is a simple, linear progression toward modernization that ultimately culminates in democratisation. In other words, once a non-democratic regime acquires a certain level, or 'threshold,' of economic development and social maturation, it will inevitably become a democracy (Rocha 2007: 1).

From the above, it is very obvious that there is a serious relation between democracy and development. Claude Ake is one of the African scholars who believe that there is a connection between democracy and development but that Africa gets it wrong. He argues that "the problem in Africa is not so much that development has failed as that it never really got started" (Ake;2001:40). Claude Ake believes that most politicians in Africa could not launch a national development project but instead opted for dependent development. He continues that "they were too economically weak externally and too weak politically to challenge their economic dependence. So they were left with an uncomfortable dilemma" (Ake;2001:40). Elsewhere, Claude Ake argues that for us to be able to see development in Africa, we should do away with the liberal democratic principles here and instead opt for what he calls social democracy. He raises a germane question: "Is capitalism or socialism the better system politically, in the sense of being more conducive to democracy?" (Ake;1992:32). Claude Ake believes that socialism too can be democratic. He says that "socialism too has some democratic possibilities, possibilities that are complementary to those associated with the capitalist system" (Ake;1992:35). In essence, can democracy serve Africa positively?

The debate on whether democracy and development are related has produced diverse views, yet many scholars usually admit that there is a

large connection between them and that the variant of democracy you intend to employ also has a role to play.

Many countries in Africa, obey the dictates of many of the world super-powers. It is therefore doubtful if it is possible to have an idea of democracy without external 'supervision'. Are African states truly sovereign? In the course of the analysis in the other sections of this unit, this question will be tendered to.

Self-Assessment Exercise 1

1. _____is one of the African scholars who believe that there is a connection between democracy and development but that Africa gets it wrong (a) Ake (b) Fukuyama (c) Obiyan (d) Irele
2. Pick the odd choice: (a) India (b) North Korea (c) South Korea (d) Australia
3. What is Claude Ake's argument concerning African politicians on democracy?

1.4   Democracy in Africa or African version of Democracy?

Among scholars, there has been the debate of whether democracy is alien to Africa or whether it is peculiar to it. For those who believe that democracy is alien to Africa, they argue that democracy is merely in import into the African continent and does not fail to take notice of the history of the peoples as well as their various experiences of the Africans. Scholars in this field also argue that the concept has been misunderstood and consequently misapplied. One of the scholars in this camp is the late Henry Oruka. On the other hand, some other scholars believe that there is what can be called African democracy which is derivable from the glorious traditional past. Edward Wambala is a scholar that makes this case and looks at the relation between the demographic factors and it impact on democracy itself. We shall return to amplify this point later on.

While arguing that Democracy is alien to Africa and that many African leaders have actually failed to grasp the concept fully and thereby misapplied it, Henry Oruka Odera harps that:

…what is in all cases a dictatorship is paraded as 'African Democracy' and the white culture is again expected to endorse that it is so. And what is clearly a de-development or pseudo-development is described as 'development', and again the white world is expected to endorse that it is development – but of course 'African Development' (Oruka 1972:56).

What the above intends to come out and tell us all is that Africans have given their own peculiar understanding to the meaning and nature of democracy. Their language and way of doing things usually bungle things and turn them upside down. This line of thought has been well voiced by Pauline Hountondji who also relays that:

Words do indeed change their meanings miraculously as soon as they pass from the Western to the African context, and not only in the vocabulary of European or American writers but also, through faithful imitation, in that of Africans themselves (Hountondji, 1991: 116).

It is obvious from the two scholars that it can only be safe to say that democracy is in Africa and there cannot be African democracy. The only thing they willing to grant is that what we have in Africa is pseudo-democracy.

On the other hand, Edward Wambala seems to be of the view that there is indeed democracy in Africa right from inception. He gives parallel illustrations from the kind of consensus in traditional African polity. He reveals that there is a relationship between demography and democracy which we are willing to accept with him. Wambala explains:

Demographic factors seem to have played a considerable part in the evolution of democracy in traditional society. One might recall that it was the smallness of the population in the ancient Greek polis that facilitated the participation of all free citizens in the running of its affairs. In traditional Ganda society, a similar demographic factor seems to have been central to the institution and regulation of social political life, and the creation of what we would call a democracy. But while the small population resulted in a democracy in the Greek polis at a time when monarchism had virtually died away, with the few vestigial kings being seen as merely ceremonial figures, in Ganda society a small population facilitated the evolution of a democracy that was situated in a rural setting, and, moreover, was under the reign and rule of a king (Wambala 2004:435).

From the above, it is obvious that one cannot but concede in affirmative. But a critical look at the monarchical system of the Old Oyo Empire quickly shows that in some parts of Africa, the mob is not usually consulted about matters regarding statehood. What does this mean for the present assessment of democracy?

Even a critical look at the title of his work clearly suggests that Edward Wambala attempts to equate government by consensus to democracy which is impossible. Even in the Greek city states where direct democracy operated, children, women and slaves were usually excluded

from lending their views on matters that concern them. Is it not possible that such is evident in the African set up as well? Regardless of what may be said direct democracy is what we are willing to grant because of the demographic factors which Wambala Edward has told us about. Anything more than that is nothing other than Pseudo-democracy which Henry Odara (1972) already told us about.

There are some peculiar problems that needs to be given closer attention in the course of the analysis of the extent to which the democratisation process in Africa has yielded positively.

The Problem of Electioneering/Electoral Fraud: One of the cardinal principles of democracy is election which gives the peoples an opportunity to appoint a new leader. In the Nigerian case such is not the case. There are always cases election rigging and this does not really represent the will of the people. Apart from the level of illiteracy and ignorance on the part of the populace who are bribed with a few thousand naira to vote for a particular candidate, the electoral body has some corrupt elements within it who are on the payroll of many of the politicians. In this case, how can election be free and fair? There is also deep connection between education and democracy. When the former is faulty, it naturally beckons on the latter. How is this possible?

While lamenting on the general dilapidation of the Nigerian education system regarding the dividends of democracy, Professor Akin Oyebode (2005: 53) explains that:

A situation of mass poverty and ignorance is conducive for the emergence of mediocre leaders with long wallets and itchy fingers. Where and when the politics of the stomach takes sway, good governance, public accountability, and transparency are the first casualties (Oyebode 2005: 53).

Notice what Professor Akin Oyebode calls the kind of system Nigeria practices – politics of the stomach. We must bear in mind his conviction that poverty and ignorance are the reasons why these leaders exist in the first place. This implies that the leaders would always want to maintain the level of illiteracy so that they would not know right from wrong or vote for the 'wrong person' in the long run who would 'change' the system.

The Idea of Power-Sharing: The idea of sharing power among the tiers of government as well as the arms of government is very germane to the full practice of democracy. But in Nigeria, such is not the case. The local governments are fighting for their own autonomous power to be

freed from the state governments who are unwilling to part with them because they want to decide the revenue that enters their purses.

In Nigeria, there has been the case whereby the executive arm of government is the one that appoints the chief Judge instead of merely ratifying the choice of the judicial arm of the government. This means that the executives usually put their people in charge so that they become supreme over the constitution. A good look at the state of the Nigeria democracy becomes paramount.

Nigeria, we are meant to believe is a democratic country. The reasons for such an assertion include the existence of political parties; elected representatives of the people in a National Assembly; elected national president, governors and local government, councillors, etc. Added to all these would be the rule of law and equality of all before the law of the land.

The law of the land in such a democratic polity would be grounded in a constitution. The constitution would spell out among other things, some fundamental rights and privileges for the citizens.

The Lack of Supremacy of the Constitution: In the case of Nigeria, her 1999 constitution has sections on the fundamental objectives and directive principles of state policy; as well as a section on fundamental rights. The attainment of citizenship is explicitly articulated as well as the status and functions of the various organs of government. All these are entrenched in and constitute the vital aspects of the said constitution. Thus, in principle, Nigeria qualifies to be branded as a democratic state but is it really the case? Is the constitution truly supreme in the country? Is it not the opposite of the truth that nobody is beyond the law?

In dictatorship regimes however, which is not far during Nigeria's military rule experience, there is hardly any special consideration and respect for the constitution or even rule according to its (the constitution's) dictates. In fact, the first thing a military dictator does is to suspend any existing constitution.

Political Apathy/Indifference on the Part of the Masses: Another problem is that elections do not usually represent the take of the masses on many elections. When in a population of 170 million people, 50 million are eligible to vote and then in the long run only 10 million people turn up for the voting exercise, we cannot be sure that the candidate that emerges out of such an election is a true reflection of the mindset of the peoples.

Politics of God-fatherism: Democracy is about people. If about 70% of Nigerians are impoverished; and this malady includes lack of relevant, proper, formal and modern education; provision of the basic necessities of life, we shall appreciate the point that such uninformed impoverished citizenry may not be interested in participating fully in matters of state. This situation is not any better when it is realised that over 80% of the population are excluded from the commanding height of the ownership of the means of production and distribution of material wealth and services. Those who control the economy strive to control what happens in the polity. The controllers of social wealth determine the nature of democracy in a given country. It is in this light that the recent activities of some governors and former heads of state in Nigeria in terms of Nigeria's democracy come to the fore. The governors and some of the former heads of state are running Nigeria in their own personal socio-economic interests and those of their collaborative foreign partners. When you read about the frantic efforts to attract foreign investors, what is in reality meant is the attraction of foreign 'partners' in the running of the economy and of the shaping of the political landscape. Can Nigeria be said to be a democratic country from the above?

Strictly speaking, Nigeria is striving to become a democratic polity. Presently politicians and their endorsers mobilize the Nigerian populace to serve sectarian and individual interests. When the political social, economic and educational objectives in the 1999 constitution take root in governance, we can justifiably be talking of a democratic Nigeria. For now, sovereignty, belongs to the owners of the various political parties. The strife between the Presidency, select governors and economic magnates who collectively define the Nigerian state, is an internal 'family affair' among the ruling elites. The majority of Nigerians are not meant to benefit from this strife in any way whatsoever.

The ruling class ought to realise that it is also in their interest to ensure that the interest of the majority is factored in the political and economic 'calculations'. Failure to learn that mass disaffection could lead to a violent eruption which military repression may not always contain could consequently spend the end of what many term 'fragile democracy' in Nigeria.

Self-Assessment Exercise 2

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1. How does the issue of God-fatherism compromise the democratisation process in Nigeria?
2. Provide a cursory glance of the main argument of Henry Odera Oruka on the general character of African democracy

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1.5   Francis Fukuyama on the Challenges of Democracy in Africa

The history of colonialism in the continent of Africa made the people to be mostly familiar with liberal democracy. In the words of Sithold: "it is bad history and bad civics to say that Africans never had democracy until the coming of the white man to Africa" (See Eghosa, 1989:53). It is a well- established fact that in pre-colonial Africa, people had developed clear concepts of government and politics. The point here is that the concept of democracy is not alien to Africa but the tragedy that bedevilled Africa in an irreversible way is the fact that Africa has abandoned her heritage of political ideals which gave rise to humane and orderly societies. In this wise, liberal democracy has been sold to the continent of Africa as the best form of government, irrespective of its ills, which no nations of Africa have recover from.

Scholars from different fields of study have discovered that there are so many factors which are responsible for the failure of the practice of democracy in Africa. While some of these reasons are historical, that is traceable to the colonialists; there are others that are home-grown. However, the starting point will be to identify some cultural factors that inhibit the establishment of stable democratic order in Africa. Francis Fukuyama in his book, *The End of History and the last Man,* identifies four main cultural factors responsible for the failure of democracy in Africa.

The first one is that a country where the nationalism or ethnicity of its constituent group is so highly developed that they do not share a sense of nation or accept one another's right, such democracy cannot thrive. (1992:215). Ethnicity which can be termed as "the active sense of identification with some ethnic units" or more appropriately a strong "feeling of allegiance to one ethnic group," (Uroh 1998:98) is one important factor that is responsible for the ill-fated condition of democratic practice in most Africa nation. According to Dukor (2003:186) the bane of African politics and economy is ethnic conflicts in the nation-states precipitated by colonialism and reinforced by imperialism, illiteracy, poverty and false consciousness. Above all, the ruling elites have continued to employ ethnic and regional sentiment to mobilize in the struggle for state power and the control of economic resources.

Ndulu and O'Connell (1999:49) argue on the one hand that the salience of tribal and ethnic division at independence was in part a legacy of colonialisms. According to them, the European created national boundaries in many cases bore little relation to pre-existing economic or political groupings. More significantly, the colonial powers had in some

cases acted to reinforce ethnic identities as in British system of "indirect rule" in Nigeria and Belgian government's alliance with the Tutsi minority in Rwanda and Burundi. But the traditionally local scale of economic and political activity in Africa virtually guaranteed that in any case local identities would predominate over national ones at the time of independence. In this sense, it was the existence of national borders, rather than their placement, that gave rise to a political management problem.

The second cultural obstacle to democracy in Africa identified by Fukuyama (1992:215) has to do with religion. Like nationalism, there is no inherent conflict between religion and democracy, except at the point where religion ceases to be tolerant or egalitarian. Fukuyama acknowledges Hegelian's idea that Christianity paved the way for the French revolutions by establishing the principle of the equality of all men on the basis of their capacity for moral choice. But religion per se, according to him, did not create free societies. Fukuyama (1992: 215) notes further that:

Christianity in a certain sense had to abolish itself through a secularization of its goals before liberalism could emerge. The generally accepted agent for this secularization in the West was Protestantism. Protestantism eliminated the need for a separate class of priests, and religious intervention into politics, while Orthodox Judaism and fundamentalist Islam, by contrast, are totalistic religions which seek to regulate every aspect of human life, both public and private, including the realm of politics.

The religious incursion into the realm of politics has over the year diminish the practice of democracy in most nations of Africa, and this in a way has brought about inability of the citizenry to enjoy or reap the dividends of democracy as it obtain in other parts of the world where there are less of religious fanatism in the governance. In addition, Smith (2003:10) identifies religious fundamentalism as a threat to democracy in the third world. According to him, it violates principles of toleration and equal rights. Citing the example of Indian, Hindu nationalism is believed by some experts to threaten the very survival of the political system as a pluralist democracy. To a considerable extent such movements reflect disillusionment with political and economic developments which leave large sections of the population marginalized both materially and politically as power is accumulated in the hands of new ruling classes. Religious fundamentalism provides an ideological focus which asserts the relevance of forms of traditionalism to the modern world.

The third cultural constraint to the emergence of stable democracy has to do with the existence of a highly unequal social structure, and all of

the habits of mind that arise from it. According to Fukuyama (1992:217), the strength and stability of American democracy was due to the fact that American society was thoroughly egalitarian and democratic long before the declaration of independence and constitution were written. Americans were "born equal" that is the dominant cultural traditions brought to North American were those of liberal England and Holland, rather than, those of absolute seventeenth –century Portugal and Spain. Masters and slave persisted, in other words, in more naked and deeply rooted forms in some countries than in others. Following the above, a close look at the social structure in most nations of Africa depicts a wide social inequality. Social inequality refers to the ways in which socially-defined categories of persons are differentially positioned with regard to access to a variety of social "goods", such as labour market, education, health care and forms of political representation and participation (Walker:2009:1). On this note, Smith (2003:236) suggest that if there are profound inequalities there will be resentment and discontent with a system of decision-making that is unable to redress the imbalance. For any society to secure peace and stability therefore, steps have to be taken back to equality, the course which democracy is committed to. The point we are to note here is that Africa social structure as perceived, promotes master-slave hierarchy in the society and the implication of this is the reflection of various crisis, being experienced in the social, economic and political sphere.

A final cultural factor identified by Fukuyama affecting the prospect for stable democracy has to do with a society's inability to autonomously create a healthy civil society-a sphere in which a people are able to exercise "art of associating" free from reliance on the state. According to him, democracy works best when it proceeds not from the top down, but from the bottom up, with the central state arising naturally out of a myriad of local governmental bodies and private association that serve as schools for freedom and self-mastery. Democracy is, he noted further, a matter of self-government, and if people are capable of governing themselves in their towns, corporations' professional associations, or Universities, they are more likely to succeed in doing so at a national level (Fukuyama 1992:217).

To this end, the issue here is that civil society promotes the consolidation of democracy by monitoring the exercise of the state power, stimulating political participation, educating people in democracy, representing interests, and providing an alternative to clientelism (Smith:2003:268). However, it appears that contrary is the situation in the contemporary African state, the masses that could form a strong civil society has been weakened by the weapon of poverty and illiteracy. The fact that there is mass unemployment and low level of enlightenment has in no little way made it difficult for any group of

people to form a strong civil society group capable of influencing government policies. The summary of the point here is that the situation in Africa is what Smith (2003:269) in agreement with the view of Luan (1996:1890) succinctly put thus 'the elements of civil society are still underdeveloped; and ways to attract and operationalize people's participation are as yet unreliable and ineffective'.

In light of the above, it should be noted that the current model of democracy, which the Western colonial powers imposed on Africa, called Liberal democracy is not suitable for twenty-first century African states. The quest for indigenous model of democracy, which can accommodate African cultural make ups is what is urgently needed to proffer a lasting solution to Africa political problem.

Self-Assessment Exercises 3

> 1. Colonialism in the continent of Africa made the people to be mostly familiar with _____
> 2. It is a well- established fact that in pre-colonial Africa, people had developed clear concepts of _____
> 3. Francis Fukuyama in his book, *The End of History and the last Man,* identifies four main cultural factors responsible for the failure of democracy in Africa. The first one is the one that has to do with_____

1.6   Summary

This unit has focused on the democracy question especially as it pertains to Africa. The discourse has focused over the extent to which democracy has attained a new meaning or conception as well as how same has served as a reason for the poor political administrations of most states in Africa. The view of Fukuyama

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1.8   Possible Answers to Self-Assessment Exercises

Self-Assessment Exercise 1: **1**. (a); **2**. (b); **3**. Ake believes that most politicians in Africa could not launch a national development project but instead opted for dependent development. He argues that they were too economically weak externally and too weak politically to challenge their economic dependence. So, they were left with an uncomfortable dilemma. Furthermore, Claude Ake argues that for us to be able to see development in Africa, we should do away with the liberal democratic principles here and instead opt for what he calls social democracy.

Self-Assessment Exercise 2: 1. Those who control the economy strive to control what happens in the polity. The controllers of social wealth determine the nature of democracy in a given country. It is in this light that the recent activities of some governors and former heads of state in Nigeria in terms of Nigeria's democracy come to the fore. The governors and some of the former heads of state are running Nigeria in their own personal socio-economic interests and those of their collaborative foreign partners. When you read about the frantic efforts to attract foreign investors, what is in reality meant is the attraction of foreign 'partners' in the running of the economy and of the shaping of the political landscape; **2**.For Oruka, what is in all cases a dictatorship is paraded as 'African Democracy' and the white culture is again expected to endorse that it is so. And what is clearly a de-development or pseudo-development is described as 'development', and again the white world is expected to endorse that it is development – but of course 'African Development.' The point that he is making is that Africans have given their own peculiar understanding to the meaning and nature of democracy. Their language and way of doing things usually bungle things and turn them upside down. This line of thought has been well voiced by Pauline Hountondji who also relays that words do indeed change their meanings miraculously as soon as they pass from the Western to the African context, and not only in the vocabulary of European or American writers but also, through faithful imitation, in that of Africans themselves.

Self-Assessment Exercise 3: 1. Liberal democracy; 2. Government and Politics; 3. Nationalism or Ethnicity

End of Module Exercises

1.   Between direct democracy and indirect democracy which is the most feasible in contemporary times?

Ans.: Indirect democracy

2.   _____ analysis of democracy is premised on the conviction that issues that concern the democratic political community ought to be subject to collective debate and scrutiny (a) Weber's (b) Durkheim's (c) Popper's (d) Dahl's

Ans.: (b)

3.   Freedom of manslaughter is a fundamental ideal of citizens in a democracy (a) True (b) Valid (c) Undetermined (d) None of the above

4.

Ans. (d)

5.   In ancient Greece women were not excluded from democratic processes (a) True (b) Valid (c) Undetermined (d) None of the above

Ans.: (d)

6.   Pick the odd choice concerning democracy in Africa (a) The Problem of Electioneering/Electoral Fraud (b) Politics of God-fatherism (c) Supremacy of the Constitution (d) The Lack of Supremacy of the Constitution

Ans. (c)