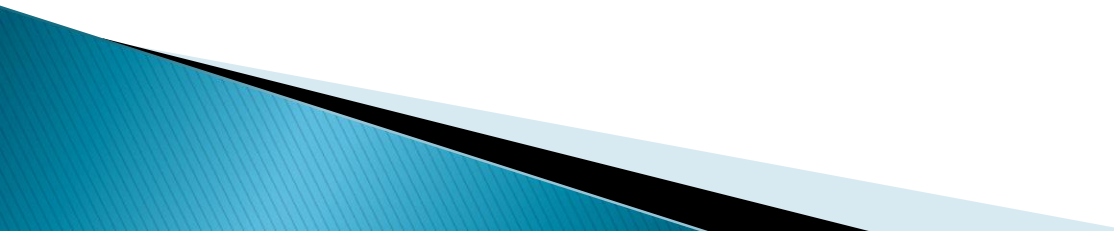


Our Discussion Today

- ▶ Nigerian Muslims and the On-Going Constitutional Amendment – An Academic and Socio-Legal Discourse

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The Science of Constitutional Making/Amendment in a Country

Making political reforms through the legal constitutional order.

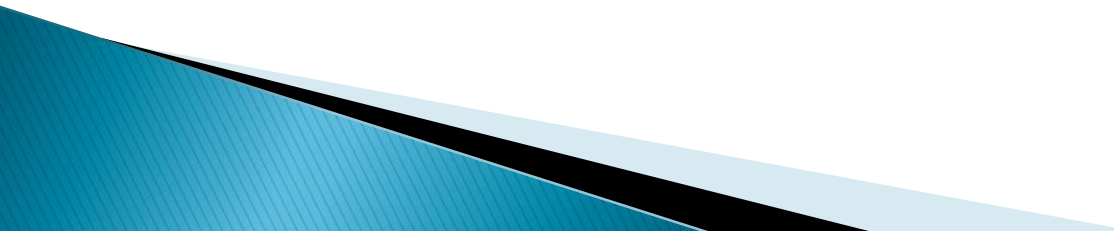
Placing an emphasis on citizens' participation in the drafting and implementation of Nations constitutions

Feature of participatory democracy i.e Theory that prioritizes public involvement in govt's decision making

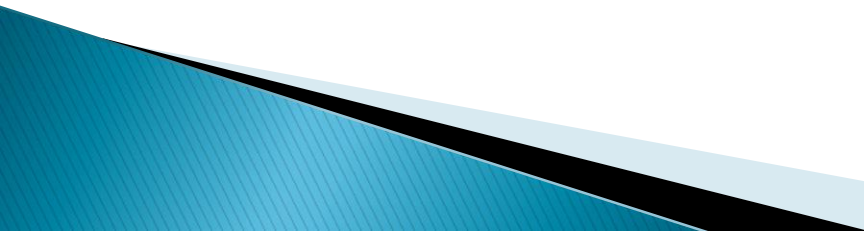


What does Constitutional Amendment/making Entails

It is a discussion of problems, conflicts, interests, preferences, and claims of need. Within participatory democracy wherein participants offer solutions to the problems raised or proposals to address their needs


- ▶ **Proposals are rejected or refined based on their ability to withstand “dialogic examination.”**
 - ▶ **Decisions are made based on which proposals are supported by the best reasons, as decided by the participants, rather than which proposals are supported by the largest number of people.**
 - ▶ **The idea that interests are dynamic and that the process of deliberating facilitates interest transformation is a key premise of participatory democracy. Politically equal actors deliberating political matters in an environment free from coercion or domination can often develop a consensus.**
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Foundations for a Democratic Participatory Constitutional Making

- ▶ Inclusion and Political Equality are two foundational norms of deliberative democracy.
 - ▶ These two concepts are necessary against the background that to increase the likelihood that the “best arguments” will emerge and be discussed.
 - ▶ Political Equality ensures that all affected individuals are included in the decision-making process on equal terms.
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INVOLVING THE RELIGIONISTS

- ▶ In Nigeria of today, 90 percent of the population profess either Christian or Islamic religion. As a result, including both religionists to take an active part in the constitutional Amendment is highly commendable and desirable.

- ▶ Participatory decision making also provides a space in which innovative solutions and approaches to problems can emerge that are qualitatively better than the solutions and approaches developed in elite or exclusive settings.
 - ▶ Effective solutions to concrete problems often require “the variety of experience and knowledge offered more by diverse, relatively more open-minded citizens and field operatives.”
 - ▶ Elite discussions or deliberations generally focus on addressing the security, political, and economic concerns of the elite. Such a narrow focus during constitution making can cause drafters to miss out on effective substantive governance solutions.
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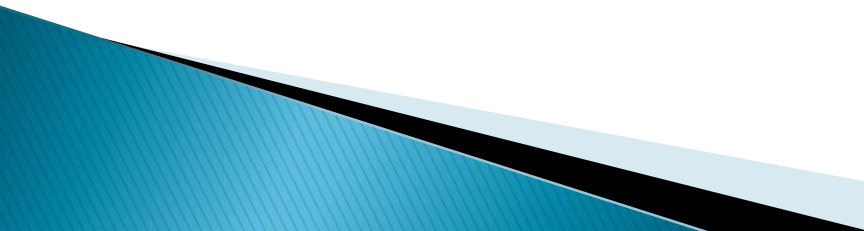
Attitude of the Muslims to the Issue

- ▶ It is rather unfortunate that the apparent lackadaisical attitude and absence of a coherent front to represent the Muslims interest in the ongoing constitution review process though appears not deliberate, it gives way to a slippery slope to a systematic internal exclusion.
- ▶ Thus, if care is not taken would create a situation in which Muslims irrespective of their acclaimed numerical majority in Nigeria becomes internally excluded in the scheme of things.

International Law as the Basis for Participation

- ▶ There are two bases for which Muslims are expected to participate in the constitution review. They are (1) The right to self determination and (2) The right to participate in the political affairs of one's country.
- ▶ Muslims are entitled to these two rights.
- ▶ These two concepts provide a legal foundation for their (Muslims) inclusion in the constitution-making process.

What right to self determination actually entails ?

- ▶ Scholars conceptualise the right as both external and internal.
 - ▶ The external conceptualization refers to the “right for the peoples of the State to determine how the State will be run without external interference.”
 - ▶ The internal right is an entitlement to participate in the State’s decision-making processes regarding its political status and its economic, social, and cultural development.
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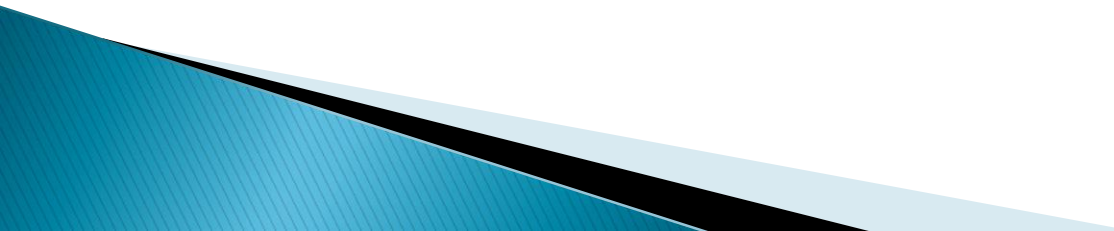
International Law (ICCPR)

- ▶ This participation right of the Muslims is based on Article 25 of the International Covenant on Civil and Political Rights (ICCPR) which provides that:
- ▶ Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:
- ▶ (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- ▶ (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors?
- ▶ (c) To have access, on general terms of equality, to public service in his country.

Classification of the Status of the Nigerian Muslims in Relation to the On-going Constitution Amendment

- ▶ According to Banks and Angela, state's political system always includes members and challengers.
- ▶ Members are those "groups possessing sufficient politico-economic resources to ensure that their interests are routinely taken into account in decision-making processes."
- ▶ Challengers on the other hand according to them are those "groups whose interests are routinely organized out of institutionalized political deliberations because of their lack of bargaining leverage."

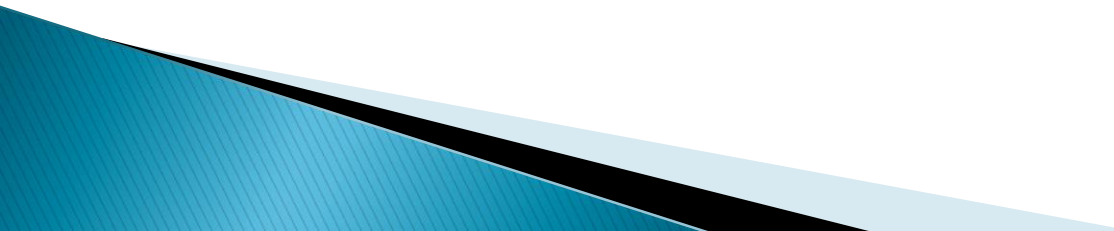
It is pathetic and bemoaning that in the present situation, Nigerian Muslims may be classified as mere challengers while the Christians may be assumed to be members.



Difference in achievement of both

- ▶ Member-driven change projects will generally seek limited reforms and utilize institutional strategies that build upon existing relationships with key decision makers.
- ▶ Challengers, on the other hand, tend to seek changes that transform the status quo in ways that are incompatible with members' interests.
- ▶ Due to their controversial goals and limited access to elite's decision makers, challengers do not often have their ways.
- ▶ Scholars have however suggested that challengers need to utilize a combination of institutional and non-institutional strategies for them to achieve their goal .

The Hidden Challenge of External and Internal Exclusion

- ▶ External exclusion refers to the ways in which individuals are precluded from participating in the forums in which substantive decision making occurs.
 - ▶ Internal exclusion occurs when individuals are physically present in the decision-making forums, but they lack effective opportunity to influence the thinking of others.
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- ▶ **The external exclusion may not pose a challenge to the Muslims in view of the participatory all inclusive process that is on-going in the country with regards to constitution amendment.**
 - ▶ **However, one may not be entirely wrong to assume that Muslims suffer the internal exclusion in the on-going process of constitutional review.**
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