

# CONSTITUTIONAL SUPREMACY AND PARLIAMENTARY SUPREMACY IN NIGERIA AND UNITED KINGDOM

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## **Abstract**

The concept of Supremacy is achieved through sovereignty. It is the unshaken privilege enjoyed by a political institution or instrument in the dispensation of administration. This paper is meant to examine the concept of constitutional supremacy and Parliamentary supremacy as it is being dispensed in Nigeria and the United Kingdom. This paper juxtaposes between reasons for suitability of Parliamentary supremacy in United Kingdom and suitability of Constitutional supremacy in Nigeria. This paper finds out that certain factors like system of government, population, history, ideologies and religion play prominent roles in stabilizing either form of supremacy. This paper concludes that both Nigeria and The United Kingdom enjoy the merits of their governance systems as application of parliamentary supremacy in Nigeria would have incurred political disaster while application of constitutional supremacy in the United Kingdom would possibly have been more expensive and practically unsuitable if it operates within unitary system of government. It is also clear that the source of sovereignty in both constitutional supremacy and parliamentary supremacy is the people.

## **1.0. Introduction**

The political system of every nation determines to a large extent, the style of governance in it. Every nation has its political ideology and it uses the ideology to operate and govern the people in an orderly manner. In the political system lies the methods through which the governance is dispensed. It is expected that the methods would be clearly spelt in the constitution. The constitutional concepts of a nation articulates sovereignty, separation of powers, conventions,

ministerial responsibilities and Rule of Law. The sovereignty of a nation could be entrenched in the constitution or parliament. The determining factors that point to sovereignty are considerations in terms of type of government, history, population and people. Also, the homogeneity and heterogeneity of the people play significant roles. This paper focusses on the concept of Sovereignty. It examines the principle of sovereignty between the constitution and parliament. The paper brings to fore two countries: Nigeria and United Kingdom; visualizes the relationship between the two types of sovereignty or supremacy and further simplifies how sovereignty transforms into Supremacy. The major aim of this paper is to compare between constitutional Supremacy and Parliamentary supremacy in Nigeria and United Kingdom considering the types of government, history, ethnicity and other factors.

## **2.0 The Concept of Sovereignty or Supremacy**

This paper reviews the concept of sovereignty so as to create a clear understanding about supremacy. Supremacy in the context of governance cannot be well understood if sovereignty is not explained, summarily, supremacy is the end result of sovereignty. Many authors have attempted to define sovereignty in line with legal powers, systems and operations. It is important to say that many of these authors have helped in creating impressions about the meaning of sovereignty. Eventhough, there is no universally adopted definition of sovereignty, yet, scholars' attempts to define it have left significant understanding of what sovereignty is. Two basic words that describe sovereignty are 'independence' and 'supreme'.

The history of Sovereignty could be traced to the notion of supreme ruler through absolute monarchy that would display unfettered power to govern and order heads to be struck off, without proper legal power or authority of the community. However, the modern idea of sovereignty is associated with the supreme power of law making and implementation of the laws made without recourse to any other idea, ideology, principles and laws. Examples of absolute leaders who displayed such arbitrary sovereign powers include Benito Mussolini, Haround-al-Rashid, and few others.<sup>1</sup>

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<sup>1</sup> Dennis Lloyd (1964) Idea of Law, Penguins books

Sovereignty is derived from the Latin *superanus* through the French *souveraineté*, the term was originally understood to mean the equivalent of supreme power. However, its application in practice often has departed from this traditional meaning.<sup>2</sup> Dennis Lloyd described Sovereignty as the absoluteness of power display by organs of state. He emphasized that the ultimate sovereignty resides not in any human being but in the organ of the state.<sup>3</sup>

Malemi in his book, the Nigerian Constitutional law, defines sovereignty as:

*“The right or power of independent rule. It is the national right or power of independent rule. It is the political independence of a given person such as a King or Queen or of an administrative authority, entity or nation. Sovereignty is a state of independence without subjection to any other authority. Sovereignty is political independence, or authority. Sovereignty is a state or condition of independence.”*<sup>4</sup>

Jean Bodin, in his own view, explained sovereignty as the nature of every independent state to possess a supreme legislative power in which the authority of that power is superior and unfettered. It is the absolute power of the arm of state, eventhough, such absolute power might be deposited in occupiers of such government arms, to wield without consultation within the state.<sup>5</sup> The English philosopher Thomas Hobbes (1588–1679), argued that in every true state some person or body of persons must have the ultimate and absolute authority to declare the law. Thomas Hobbes later concluded that the concept of sovereignty is a tool of authority to weaken the state.<sup>6</sup>

According to the Britannica, sovereignty is the decision-making process of the state and in the maintenance of order.<sup>7</sup> The Black Law’s dictionary defines sovereignty as

*“The supreme political authority of an independent state. It is in the ordinary sense means supremacy. The right to demand obedience. Although the idea of actual power is not absent, the prominent idea is that of some sort of title to exercise control.”*<sup>8</sup>

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<sup>2</sup> Britannica, assessed and retrieved online via <https://www.britannica.com/topic/sovereignty> on 19/08/2020

<sup>3</sup> Dennis Lloyd (1964) *Idea of Law*, Penguins books

<sup>4</sup> Ese Malemi, “The Nigerian Constitutional Law” (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 53.

<sup>5</sup> Stanford Encyclopedia of Philosophy assessed and retrieved online on 14/8/2020 via <https://plato.stanford.edu/entries/bodin/>

<sup>6</sup> Stanford Encyclopedia of Philosophy assessed and retrieved online on 14/8/2020 via <https://plato.stanford.edu/entries/hobbes-moral/>

<sup>7</sup> Britannica, assessed and retrieved online via <https://www.britannica.com/topic/sovereignty> on 19/08/2020

<sup>8</sup> Black’s Law Dictionary, 2009, ninth edition, Thomas Reuters

Dennis Lloyd further described sovereignty as habitual and customary obedience to the power of the state without considering or yielding to any form of other power.<sup>9</sup> This is a key element of measuring sovereignty.

The clear notion from the definitions of scholars is that Sovereignty is the display of authority by an entity with complete obedience by the subjects of that entity without any iota of defense, rebellion or disobedience. Also, the question of sovereignty is not really the question of the supreme legal authority, for instance constitutional or legislative, but to really be able to determine the right source of the ultimate power.

### **3.0. Constitutional Sovereignty or Supremacy**

Constitutional sovereignty is the supremacy of the constitution, which is the express or written will of the people. In constitutional democracy, the people are the sovereign. The essence is that the people make and own the constitution. The constitution recognizes the people as sovereign and the will of the people as expressed in the constitution is supreme and sovereign. Where the constitution is supreme, the people are supreme and their will as entrenched in the constitution, is supreme and binding on all authorities and persons.<sup>10</sup> Constitutional Sovereignty or supremacy implies that the constitution is final, sovereign and supreme. It is a common feature of modern constitutions in commonwealth countries and the United States of America. The practice of strict constitutional sovereignty varies from one country to the other; of which the determinants of practice largely depend on the history and nature of separation of power that is obtainable in such countries.<sup>11</sup>

Ese Malemi highlights in his book, *The Nigerian Constitutional Law* that for a constitutional sovereignty or supremacy to be acknowledged in a country, the following five conditions must be fulfilled:

1. The people are the sovereign entity and the final authority in the country.

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<sup>9</sup> Dennis Lloyd (1964) *Idea of Law*, Penguins books

<sup>10</sup> Ese Malemi, *"The Nigerian Constitutional Law"* (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 54

<sup>11</sup> *Ibid* p.56

2. The constitution as made by the people is the supreme law of the land and it is superior to all other laws and legislations in the country.
3. The powers of the parliament or legislature are defined and limited by the constitution.
4. The constitution overrides every other law, decision or conduct and any law or act contrary or in violation of the provisions of the constitution is null and void and of no effect whatsoever.
5. The government has to submit itself for assessment by the people at general elections. The people if satisfied will renew the mandate of the government and let it remain in power, or if dissatisfied will withdraw its mandate, so that such government will quit power.<sup>12</sup>

In explaining constitutional sovereignty and bringing the arms of government to fore, the doctrine of separation of power partitions arms of government into three: Executive, legislative and judiciary. All these arms must derive their power from the constitution, being the mandate of the people. Thus, every power in the country, be it legislative, executive or judicial is subordinate, derived from and controlled by the constitution as laid down by the people, the sovereign.<sup>13</sup>

It is therefore safe to submit that constitutional sovereignty or supremacy is the bindingness of the constitution on all entities, authorities, agencies, arms and persons in a country. It is the recognition of the constitution as the operational modules with which all systems of government derives potency and functionality. It is needful to say that written and rigid constitutions are pointers to constitutional supremacy.<sup>14</sup> The source of the supremacy is the people who have agreed together to be governed by the constitution. Attempts by any government's arm or agency to circumvent the constitution is intolerable and unacceptable, as such, such steps or efforts will be regarded as null and void.<sup>15</sup> Where there is supremacy of the constitution, it means that the people are supreme and their will is supreme. Nigeria, United States, Canada, South Africa, Ghana are examples of countries with constitutional supremacy.

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<sup>12</sup> Ibid p. 57.

<sup>13</sup> Stanford Encyclopedia of Philosophy assessed and retrieved online on 14/8/2020 via <https://plato.stanford.edu/entries/hobbes-moral/>

<sup>14</sup> Ese Malemi, "The Nigerian Constitutional Law" (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 52

<sup>15</sup> Ibid p. 57

#### 4.0 Parliamentary Sovereignty or Supremacy

Legislative authority is carried out through the parliament in a democracy. Parliamentary sovereignty simply means the legislative supremacy of parliament. Black's Law Dictionary describes parliamentary sovereignty as a form of internal sovereignty in which a government legislature runs its affairs in the state.<sup>16</sup> It is a situation where the parliament's powers are not limited by the constitution.

In his own view, Malemi describes Parliamentary supremacy as:

*“The unlimited legislative power of the parliament to make, amend or repeal any law on any matter whatsoever in the country. Parliament has unlimited power to make and repeal law with respect to any matter whatsoever in the country.”<sup>17</sup>*

Where Parliamentary sovereignty is practiced, it is believed that the sovereignty lies in the people who have in turn vested such power in the parliamentarians or legislators. As such, their powers to make and repeal laws are obvious covert decision of the people who truly possess sovereignty. Parliamentary sovereignty is a concept in the constitutional law of some parliamentary democracies. It holds that the legislative body has absolute sovereignty and is supreme over all other government institutions, including executive or judicial bodies. It also holds that the legislative body may change or repeal any previous legislation and so it is not bound by written law or by precedent.<sup>18</sup> Parliamentary sovereignty is a principle of the constitution. It makes Parliament the supreme legal authority in the state. It can create or end any law. Generally, the courts cannot overrule its legislation and no Parliament can pass laws that future Parliaments cannot change. Parliamentary sovereignty is the most important part of the countries practicing it.<sup>19</sup>

Parliamentary sovereignty is practiced mainly in the United Kingdom, where the doctrine originated and later developed. Thereafter, it became a system of government in New Zealand, Australia, Israel and host of other countries. It was also practiced in Nigeria between 1960 and

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<sup>16</sup> Black's Law Dictionary, 2009, ninth edition

<sup>17</sup> Ese Malemi, "The Nigerian Constitutional Law" (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 56.

<sup>18</sup> Blackshield and Williams (2010) Australian Constitutional Law and Theory, 5th ed,

<sup>19</sup> Articles on UK parliamentary page, retrieved online via <https://www.parliament.uk/about/how/sovereignty/> on 20/08/2020

1966 when Nigeria operated a cabinet system of government which was quite different from the one practiced in the United Kingdom. Even at that, parliamentary supremacy was not applicable in Nigeria. Unwritten constitution is a prominent feature of parliamentary sovereignty or supremacy.<sup>20</sup>

## **5.0 Constitutional Supremacy versus Parliamentary Supremacy in Nigeria**

Nigeria between 1960 and 1963 practiced parliamentary system of government. The type of parliamentary system of government practiced in Nigeria during this time was not in any way close to what was obtainable in United Kingdom. However, each republic in Nigeria embraced federal system of government with a written constitution which is considered supreme in directing the affairs of citizens and all organs of government.

Nigeria, being a constitutional and democratic government, sovereign power resides in the people. Section 14(2)(a) of the 1999 constitution clearly provides that:

*“Sovereignty belongs to the people of Nigeria from whom government through this constitution derives all its powers and authorities”<sup>21</sup>*

In Nigeria, people exercise sovereignty through electoral vote and by a way of constitutional and democratic government in accordance with the Nigerian constitution which is the express will of the people, for the regulation of government and national life. The provisions of the constitution are binding on all authorities and persons in Nigeria.<sup>22</sup> Even, between 1960 and 1966, the Republican constitution of 1963 was adopted. Section 1, of the Republican constitution provided that:

*“This constitution shall have the force of law throughout Nigeria and subject to the provision of Section 4 of this constitution, if any law (including the constitution of a Region) is inconsistent with this constitution, this constitution shall prevail and the other law shall to the extent of the inconsistency be void.”<sup>23</sup>*

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<sup>20</sup> Ese Malemi, “The Nigerian Constitutional Law” (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 56

<sup>21</sup> Ibid p. 57

<sup>22</sup> Ibid p. 57

<sup>23</sup> Ibid p. 58

Similarly section 1(1) of the constitution of Federal Republic of Nigeria, 1999 is the supremacy clause of the constitution. It provides that:

*“This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.”*<sup>24</sup>

Also, section 1(3) provides that:

*“If any law is inconsistent with this constitution, this constitution shall prevail, and that other law shall to the extent of the inconsistency be void.”*<sup>25</sup>

Bringing section 1 of the 1999 constitution to application, it is clear that the constitution is not subject to any other authority including the National Assembly. The power of the National Assembly to amend the constitution is even entrenched in the constitution and such amendment must follow the procedures stipulated in the constitution, otherwise, the amendment shall be deemed void, and will be of no effect. The legislature that operates in Nigeria, operates within a written constitution which clearly set out rules and guidelines for legislative process, therefore, such legislature cannot pretend to ignore the constitution, in which if it does, its activities shall be inconsistent, void and of no effect.

Nigeria is a federation consisting of thirty-six states, the Federal Capital Territory (Abuja) and 774 local government areas. Federation of Nigeria evolved about a century into the British colonial rule. Before the advent of colonial rule the present day Nigeria consisted of different autonomous communities with diverse methods of self-rule. Prior to colonization of the entity now known as Nigeria there had been heavy presence of the Europeans within the coaster regions for trade purposes. The journey into the federal structure of Nigeria started in 1939 with the Bourdillon’s division of the area now known as Nigeria into three provinces (Northern, Western and Eastern Regions) from the two old Protectorates of the North and South.<sup>26</sup> Understanding the historical background of Nigeria, it will be difficult to adjudicate the largeness of the entire geographical area without constitution. Couple with the federal system of government in Nigeria is its diverse

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<sup>24</sup> The constitution of Federal Republic of Nigeria, 1999

<sup>25</sup> The constitution of Federal Republic of Nigeria, 1999

<sup>26</sup> Araromi, Marcus, The Practice of federalism under the constitution of Nigeria, United States of America and Australia.



ethnic groups. Nigeria has three major ethnic groups; Yoruba, Hausa/Fulani and Igbo, and more than five hundred ethnic minority groups.<sup>27</sup>

To protect the rights of minorities, there needs to be a constitution that will serve as strict instrument of governance, otherwise, the rights of the minorities will be left unprotected. In addition, federal system of government is the only safe, reasonable and acceptable way to politically unite peoples of different ethnic, linguistic, cultural, social, economic, political geographical or historical backgrounds who are free and independent without destroying their identity and separate existence.<sup>28</sup> This is a typical Nigeria's feature which can only be catered for by a written constitution.

Added to ethnicity, federal system of government and history is the factor of principle of separation of powers. Separation of powers is the division of government powers into three branches of Legislative, Executive and Judicial powers, each to be exercised by a separate and independent arm of government as a preventive measure against abuse of power, which will occur if the three powers are exercised by same person or group of people.<sup>29</sup> Apparently, the essence of separation of powers is to check abuse of powers. This principle does not allow any arm of the government to be supreme over the other, rather the constitution gives a template and model of how each arm should function in line with the provisions of the constitution. This is constitutional supremacy in Nigeria.

To further establish constitutional supremacy in Nigeria, decisions on cases instituted in Nigerian courts have emphasized the validity of the constitution and potency of constitutional supremacy. On many occasions, the courts have affirmed that any act of states within the federation or organs of government which is not tantamount to the provisions of the constitution, is void. For example, in *A.G. Bendel State V A.G. Federation*, the President of the Federal Republic of Nigeria forwarded a Bill to the National Assembly, setting out a new formula for the distribution of the amount standing to the credit of Federation account between Federal, state and local governments, for consideration and enactment by the National Assembly into law pursuant to Section 149 of the 1979 constitution. The National Assembly hurriedly and irregularly passed it to law and presented

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<sup>27</sup> Centre for research on inequality, Human security and ethnicity, University of Oxford, assessed and retrived online on 24/8/2020 via <https://assets.publishing.service.gov.uk/media/57a08c97ed915d3cfd0014aa/wp18.pdf>

<sup>28</sup> Ese Malemi, "The Nigerian Constitutional Law" (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 34

<sup>29</sup> Ibid p. 82.

it to the president for assent. Upon assent, it became known as Allocation of Revenue (Federation Account etc) Act 1981<sup>30</sup>. In his judgment, Fatai-Williams, the Chief Justice of Nigeria said:

*“ In my view, a legislature which operates a written constitution in which the exercise of legislative power and its limits are clearly set out has no power to ignore the conditions of law making, that are imposed by that constitution which itself regulates its power to make law. ”*<sup>31</sup>

In the words of Nnaemeka-Agu JSC in *Imonike V A.G. Bendel state*:

*“A constitution is the organic law, a system or body of fundamental principles to which a nation, a state, or body or organization is constituted and governed. ”*<sup>32</sup>

Similarly, the supremacy of the constitution was pronounced in *A.G Ogun state & others V A.G. Federation*.<sup>33</sup> The president relied on Section 274(2) of the 1979 constitution to do the Adaptation of Public Order Act 1981. The president, by virtue of 274(2) and (4) of the constitution, is capable and competent authority to adapt the Public Order Act in order to bring into conformity with the 1979 constitution. Meanwhile, neither the National Assembly nor the President has the constitutional power by way of the adaptation to regulate or interfere with the executive functions of state governors. In view of this it is incompetent and unconstitutional for the president to alter the Public Order Act.

In the case, *Fatayi-Williams JSC* expressed that:

*“where identical legislations on the same subject matter are validly passed on their constitutional powers to make laws by the National Assembly and state House of Assembly, it would be inappropriate to invalidate the identical law passed by the state House of Assembly on the ground that the law passed by the National Assembly has covered the whole field of that particular subject matter. To say, that law is inconsistent in such a manner will not in my view, sufficiently portray clarity or precision of language. ”*<sup>34</sup>

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<sup>30</sup> Ibid p. 63.

<sup>31</sup> *AG Bendel State V AG Federation and 22 others* (1982) 3 NCLR 1 SC

<sup>32</sup> (1992) 6 NWLR pt. 248 p.396 at p.411 SC

<sup>33</sup> (1982) 3 NCLR 166 SC

<sup>34</sup> *A.G. Ogun State & ors V A.G. federation & ORS* (1982) 3 NCLR 166 SC

From the expression of the learned justice, it is sufficient to say that even if a bill is sponsored by the executive and passed to law by the legislature, if any of the process or procedures from initiation of bill to passage of law, is faulty, or worse still, if such law is inconsistent with the constitution, such law will be declared null and void. As a consequence, the laws made in the two instant cases mentioned above were disqualified, null and void.

Constitutional supremacy in Nigeria is the operational reliance of the judiciary. Courts ruled in line with the provisions of the constitution. It relies on same provisions to dismantle the law architecture that is not in conformity with the constitution, simply because, the constitution of Nigeria is regarded as the will of the people which must prevail in all circumstances.

Thus, Section 1(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) states:

*“This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.”*

The sovereign force of the Nigerian constitution is also expressed in the preamble of the 1999 Constitution. The preamble reads:

*“...do hereby make, enact and give to ourselves the following constitution.”*<sup>35</sup>

In Nigerian constitutional setting, there is a limit on the power of parliament to tamper or amend the constitution. The constitution provides that the parliament cannot repeal section 1 of the constitution which is the supremacy clause.

Ese Malemi in his book, *The Nigerian Constitutional Law* states that:

*“It is argued that a legislature that has power to amend the constitution is sovereign and therefore its power supersedes the authority of the constitution. This argument suggests that a legislature operating under a written constitution is clearly above the constitution just as a parliament operating under an unwritten constitution where the doctrine of parliamentary supremacy obtains. This argument clearly fails in the light of a proper construction of the doctrine of constitutional sovereignty.”*<sup>36</sup>

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<sup>35</sup> The constitution of Federal Republic of Nigeria, 1999

<sup>36</sup> Ese Malemi, *“The Nigerian Constitutional Law”* (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 63

The position of Malemi in the above expression buttresses the fact that parliament, the National Assembly, in Nigeria, cannot operate like the House of Commons in the United Kingdom because it cannot alter section 1 of the 1999 constitution.

It is admitted that Nigeria's National Assembly makes laws for the governance of the state, but these laws must strictly follow basic procedures and guidelines stipulated in the 1999 constitution, otherwise, such law will be declared a nullity. Furthermore, the role played by Nigerian courts to review laws made by the National Assembly cannot be down-played. The Judiciary carefully analyses the laws, critically juxtapose it with the constitution and decisively pass judgment to nullify or uphold it. This means that the parliament does not have authoritative legislative powers to make laws without checks from the courts (Judiciary). As such, the parliament (National Assembly) is not sovereign or does not have unquestionable and competent power to repeal or make laws in Nigeria.

## **6.0 Constitutional Supremacy versus Parliamentary Supremacy in the United Kingdom**

The parliament in the United Kingdom houses the body of elected politicians or other peers and nominated persons who make laws for the United Kingdom. In the United Kingdom, parliament is bicameral, that is, it is made up of two houses or chambers. These are House of Lords and House of Commons.<sup>37</sup>

The United Kingdom parliament is unarguably the index and cornerstone of parliamentary sovereignty in the world. The doctrine of parliamentary sovereignty as known today grew from the British parliamentary practice.<sup>38</sup> The King or Queen in the ancient England was an example of an absolute monarch. He or she exercised absolute powers. This attribute of totalitarianism ignited conflicts between the parliament and the monarch. Over time, the parliament won the conflicts and as such establish itself as sovereign and supreme. The parliament is the final and ultimate authority in the United Kingdom.

The practice of parliamentary sovereignty has spread from the United Kingdom to other countries like New Zealand, Australia, Germany, Israel and many more. However, the United Kingdom

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<sup>37</sup> Ibid p. 56

<sup>38</sup> Ibid p. 55

remains the country that runs parliamentary supremacy in the most fashionable and pronounced way. This is attributed to the unwritten constitutional feature of the country. The next in line of parliamentary supremacy is Israel, the Knesset which is the parliament is armed with all instruments of making laws, probing other arms of government and giving commands to other government corporations, and the legislative decisions of the Knesset are final because the parliament too, is not being guided by a written constitution. So, the Knesset is supreme. Like England, like Israel.

Another prominent strength of parliamentary Supremacy in the United Kingdom is the unitary system of government being practiced there. In Unitary system of government, all powers are concentrated on the center, there is no constitutional sharing and division of powers between the central government and regional government or local governments.<sup>39</sup> As such, there is no constitutional conflicts between the central government and regional governments. All powers and authority are concentrated in the hands of the central government. Other subordinate governments can only perform delegated functions, being an extension of the national government. Parliamentary supremacy is a natural feature of unitary system of government. The people owe their loyalty to the only powerful central government.<sup>40</sup> The unitary system of government in the United Kingdom helps to promote the stability of the parliament, because there could have been dichotomy or clash of authorities if other local districts are empowered to make laws for the people.

Parliamentary supremacy also thrives in the United Kingdom because the ethnic groups in the kingdom are not extremely diverse. Interests, desires and points of view are not classically and marginally different. So, it is easy for the parliament to make final decisions and supreme laws for the country. According to CIA World Fact book updated on December 7, 2019, the ethnic group in the United Kingdom is partitioned as White 87.2%, black/African/Caribbean/black British 3%, Asian/Asian British: Indian 2.3%, Asian/Asian British: Pakistani 1.9%, mixed 2%, other 3.7%.<sup>41</sup> It would be seen that the major interest, according to the statistics is the White ethnic group. In term of indigenous people groups, The English largely descend from two main historical

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<sup>39</sup> Ibid p.30

<sup>40</sup> Ibid p.31

<sup>41</sup> United Kingdom ethnic group factbook assessed and retrieved online on 24/08/2020 via [https://www.indexmundi.com/united\\_kingdom/ethnic\\_groups.html#:~:text=Ethnic%20groups%3A,3.7%25%20\(2011%20est.\)](https://www.indexmundi.com/united_kingdom/ethnic_groups.html#:~:text=Ethnic%20groups%3A,3.7%25%20(2011%20est.))

population groups – the Germanic tribes who settled in southern Britain following the withdrawal of the Romans (including Angles, Saxons, Jutes and Frisians), and the Romanized Britons and Brythonic Celts who had been living there already.<sup>42</sup> Originally, the people groups in the United Kingdom are not up to fifteen, hence, it cannot be compared with countries like Nigeria where over five hundred people groups exist.<sup>43</sup> Minimal people groups naturally limits agitations which automatically reduces conflicts against the central legislative authority characterized with parliamentary supremacy.

The merger or fusion of executive and legislative functions in the parliament is also a supportive and thriving premise for the prosperity of Parliamentary supremacy in the United Kingdom. The non-division of powers and non-duplication of offices do not allow for unnecessary interference from government and non-government quarters. Hence, opposition to absoluteness and sovereignty of the parliament is greatly minimal. Unlike Nigeria, where separation of power exist between the executive, legislative and judiciary, every arm of government scrutinizes the other arm efficiently in order to maintain its excellence and significance as outlined in the constitution. The Bicameral legislature of the United Kingdom Parliament, House of Lords and House of Commons weaves together the functions of executive, legislature and judiciary. This is an advantage for the parliament because no other government organ will subject the decision of the parliament to review.

The understanding of the United Kingdom’s parliamentary supremacy would be better showcased through the words of Lord Edward Coke CJ. He said:

*“Of the power and jurisdiction of parliament for making laws and proceedings by bill, it is so transcendent and absolute that it cannot be confined for causes or persons within any bounds.”*<sup>44</sup>

In the same manner, Prof. Owen Hood Philips said:

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<sup>42</sup> History of the English people published by Wikipedia, assessed and retrieved online on 24/8/2020 via [https://en.wikipedia.org/wiki/English\\_people#United\\_Kingdom](https://en.wikipedia.org/wiki/English_people#United_Kingdom)

<sup>43</sup> Centre for research on inequality, Human security and ethnicity, University of Oxford, assessed and retrieved online on 24/8/2020 via <https://assets.publishing.service.gov.uk/media/57a08c97ed915d3cfd0014aa/wp18.pdf>

<sup>44</sup> A.G. Federation V Guardian Newspaper Ltd (1999) 9NWLR pt.618, p.187SC

*“The most important character of British constitutional law is the legislative supremacy of the United Kingdom parliament. Positively, this means that, parliament can legally pass any kind of law whatsoever; negatively, it means that there is no person or body whose legislative power competes with it or overrides it.”<sup>45</sup>*

The submissions of the distinguished individuals mentioned above are clear positions of United Kingdom’s parliament. More attention should be given to the submission of Professor Owen Hood Philip. His presentation of the parliament is superlatively supreme. He described the UK’s parliament as an entity that enjoys no disadvantage from any quarter. On the first side, the parliament can make any law; on the other side, no any other organ of government, institution, or person can review such law, not even the monarch. The supremacy of UK’s parliament is all round edged. Only it can make and unmake laws.

In the view of the English jurist, Sir William Blackstone, he believed that the nature of sovereignty that the UK’s parliament enjoyed was uncontrollable and eternal. He explained that whatever the parliament does, no power on earth can undo it. He said:

*“It has sovereign and uncontrollable authority in making, confirming, entering, restraining, abrogating, revealing reviving and expanding of laws concerning matters of all possible denominations; ecclesiastic or temporal, civil, military, maritime or criminal. This being the place where that absolute, despotic power, which must in all government reside somewhere is entrusted by the constitution of these kingdoms... what parliament doth no power on earth can undo.”<sup>46</sup>*

In the case of *Edinburgh & Dalkeith Railway V Wauchop*, Lord Campbell emphasized that no court of justice can review a law passed by the parliament. He stressed that court cannot also investigate the mode through which a law was introduced by the parliament. This is the height of sovereignty enjoyed by the parliament. Lord Campbell said:

*“All that a court of justice can do is to look to the parliament will, if from that it should appear that a bill has passed both houses and received royal assent, no court of justice can enquire into the mode by which it was introduced into parliament nor into what*

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<sup>45</sup> Constitution and Administrative law, p.28

<sup>46</sup> Blackstone commentaries

*was done previous to its introduction or what passed to parliament during its progress in its various stages through both houses.*"<sup>47</sup>

The parliament in the United Kingdom operate as the beginning and the end of decision making. It sits and feels comfortable to legislate without review or opposition. This has been the trend for centuries as scholars have premised and linked the sovereignty of the parliament to the people. Simply because the parliamentarians are representatives of the people of the United Kingdom. Their decision represents the decision of the entire population.

## **7.0 Conclusion**

This paper concludes that of a truth, sovereignty resides in the people. It is the mandate of the people to make a government's institution or organ supreme. However, this mandate is vested to the institution by a way of voting for representatives who will dispense the sovereignty or by consensus given as consent to make the constitution supreme. When it is dispensed through representatives in the parliament as in the case of the United Kingdom, it is referred to as Parliamentary supremacy. When it is given as unanimous consensus to empower the constitution, it is regarded as constitutional supremacy. The source of both constitutional and parliamentary supremacy is the people.

A clear revelation from this paper is that the factors applicable in the United Kingdom, particularly, the ethnic system, fusion of responsibilities of organs of government in the parliament and historical background of the people and governance play cardinal roles in the sustenance of parliamentary supremacy being practiced there. On the other hand, Nigeria would experience disharmony, responsibility riot and authoritarianism if parliamentary supremacy is employed. Factors like multi-ethnicity, population, size of the country and written and rigid constitution would make parliamentary supremacy impracticable in Nigeria. More important indices is the history of Nigeria which created lack of trust among the federating units. The background of the amalgamation of units with different customs and ideologies is a gap of imbalance which remains unclosed, and manifesting in the machineries of governance. Hence, there is need for written and rigid constitution to pilot the affairs of the country. This has helped, though not perfect, in the

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<sup>47</sup> (1842) 8 ER 279 Lee V Bude & Torington junction Ry Co. (1871) LR 6 CP 576 Macarthys Ltd v Smith (1981) QB 180



maintenance of rule of law in the country. Nigeria, running a federal system of government, operates a big public administration and civil service which parliamentary supremacy will not be able to cater for.<sup>48</sup> Moreover, a federal system of government is an association of free states where power is constitutionally shared by the federal, state, and local councils, and with each tier of government exercising its constitutionally assigned powers and functions.<sup>49</sup> These qualities may be lacking in Nigeria's federal system of government, as ongoing global conservation is reviewing Nigeria's type of federation. Yet, it will be more disastrous in governance, if the country is not operating within the lines of constitutional supremacy. Nigeria has a strict culture of following the provisions of its Constitution but the sharing of powers between the federal and state governments is not even.<sup>50</sup> Considering this prominent culture of Nigerian system of government, constitutional supremacy might be the best option on the table of governance.

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<sup>48</sup> Ese Malemi, "The Nigerian Constitutional Law" (2017), 3rd edition, Princeton Publishing Company, Lagos, p. 32.

<sup>49</sup> Ibid p. 32

<sup>50</sup> Araromi Marcus, The Practice of federalism under the constitution of Nigeria, United States of America and Australia.