

TITLE PAGE

THE ROLE OF UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL
ORGANISATION (UNESCO) IN THE PROTECTION OF HUMAN RIGHTS IN
NIGERIA

BY

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DECLARATION

I hereby declare that I am the Original Author of this thesis in its entire form. It was written with all seriousness in foreseeable research requirements. I positively declare that nobody has ever written or presented it in any recent postgraduate application for a higher degree. All quotations, citations and references are indicated clearly together with tacit acknowledgement.

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CERTIFICATION

This thesis titled: **“The Role of United Nations Educational Scientific and Cultural Organization (UNESCO) in the Protection of Human Rights in Nigeria”** meets the regulations governing the award of Master Degree of Law (LL.M) of Ahmadu Bello University, Zaria. It is hereby approved for its contribution to knowledge and literary presentation.

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DEDICATION

This thesis is dedicated to my Late Father, Alhaji Muhammed Sanni Okaito, My Mother, Hajiya Bilkisu A Muhammed, My lovely Wife Fateema A. Muhammed, my Brother Barr. Ibrahim S. Muhammed, my Uncle Prof. Ibrahim Abdulsalami, Principal Professor M.G. Yakubu, (SAN, OFR) my supervisors Dr. S.M.G Kanam and Prof. A.K. Usman, Dr. M.T. Ladan, Mr. D.C. John, Professor K.S. Chukkol, Professor Yusuf Aboki, Dr. M.T. Othman.

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ABBREVIATIONS

A.C.	-	African Charter
UNESCO	-	United Nations Educational Scientific and Cultural Organization
U.N.	-	United Nations
O.A.U.	-	Organization of African Unity
E.U.	-	European Union
A.U.	-	African Union
I.L.O	-	International Labour Organization

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CHAPTER ONE

1.0 GENERAL INTRODUCTION

1.1 HISTORICAL BACKGROUND OF THE STUDY

It has always been presupposed that United Nations Educational Scientific and Cultural Organization (UNESCO) have a lot of activities going on not only in Nigeria, but the countries of the world in general. Their role can only be understood by examining their activities in the educational scientific and cultural disposition particularly as it affects human rights.

UNESCO is an Agency of United Nations (U.N) created by the provisions of Articles 53 and 63 of the United Nations Charter¹. It is created not only as an instrument for reconstruction but also as instrument for building peace through understanding, exchange of useful knowledge to economically less developed countries and for national cultural relations program. Countless efforts at international cooperation in the fields of education, science and culture were made in London in 1945. Thus, the general theme that runs through the activities of UNESCO in Nigeria and other countries is the diffusion of culture and education of humanity for justice, liberty and peace as indispensable to the dignity of man constitute a sacred duty to maintain and protect these principles by all nations based on the spirit of mutual assistance and concern.

Basically, UNESCO was founded due to the experiences of the Second World War of 1939-1945. Hence it was established to contribute to peace and security by promoting collaboration among the nations of the world through education, science culture in order to further universal respect for justice, rule of law, human rights and

¹See the U.N. Convention of 1948

fundamental freedom to all people and nations of the world without difference on account of race, sex language or religion.

Nigeria and many developing nations are members of UNESCO. UNESCO has been carrying out series of programmes in Nigeria involving direct and indirect actions designed to deal with the complex problems in the development of education, science culture and information respectively.

In 1947 and 1949, UNESCO expanded its role of information service to publication of books such as “A book of NEEDS”. This book outlined the basic needs and situation in member countries. It also produced pamphlets on children as victims of war. There are several newsletters on war devastated laboratories, art galleries, museums and libraries.

Nigeria actually benefited from the activities of UNESCO in a number of ways. This study will consider some of these both in Nigeria and in other parts of the world.

1.2 AIMS AND OBJECTIVES OF THE STUDY

This study is aimed at examining the role of UNESCO in the protection of human rights in Nigeria and the world generally.

Looking at the basic functions of UNESCO, the study shall assess its activities in Nigeria such as the promotion and protection of education, science, technology as well as culture all over the world.

By studying the standard setting and specific human rights of UNESCO we can be able to see the necessity of having the international agency in the promotion of peace unity and education advancement of the world.

In the world today, a lot of people and societies are denied the right to education by their government or by religious or cultural reasons. The research is aimed at looking at how UNESCO have been able to do away, with this discrimination in education to the countries and societies affected by these problems.

Also, freedom of information is one of the important aspects of human rights which many people are denied. One of the roles of UNESCO is to protect and promote dissemination of information so that the world will be informed in what is happening around them. The study is meant to analyze how and what had UNESCO done or is doing to check the hoarding of knowledge to the people or societies affected by the phenomenon.

There are some harmful cultural and uncivilized practices in some countries in the world which affects the rights of the people in the designated countries. The study shall expose these places and highlight what UNESCO did in such circumstances in order to promote human rights in that aspect.

1.3 SCOPE OF THE RESEARCH

As the title of the thesis indicates, the study shall cover a very wide area of UNESCO activities in the world.

Since no person, society or country is an Island living on its own, it must live with other people of the world. Hence education, science, information and culture touches on all aspects of human endeavour. This means that UNESCO activities in the above fields cover a wide area. In fact, the whole nations of the world. Thus, this study has a multidimensional geographic coverage. Legally, the research covers that aspect of human rights classified as second generation rights particularly, the right to education,

information and culture. This is because, these are the human rights areas covered by UNESCO activities. They are, however, not justiciable rights under our constitution and that is why most, if not in all countries of the world could sometimes flout the provisions without legal remedy to the victims.

They therefore, rely on activities of organized civil societies groups for implementation.

Nationally, it shall examine UNESCO's role in the promotion and protection of education, information and culture in Nigeria.

Regionally, UNESCO has relevance in Northern, Southern, Eastern and Western parts of Africa especially those countries that had been ravaged by war and natural disasters. This means, they will need the services of UENSCO in Education, information and cultural integration. Countries like Ivory Coast, Sierra-Leone, Sudan, Liberia, Congo, Western Sahara etc fall into this category.

Internationally, it covers most developing countries in the world such as the Middle East, Asia, some parts of Northern Europe the pacific region and Latin America, Earthquake, Hurricane, Tsunamis and political disturbances abound in the above mentioned regions. This means the societies living in those places shall be lacking in the basic right to education, information and cultural affiliation. This study shall focus on these areas to see what UNESCO has done or is doing or about to do to provide the necessary human rights to the people affected.

1.4 STATEMENT OF THE RESEARCH PROBLEM

Since the study covers several regions and countries in the world there is the dearth and great difficulties in the collection and analysis of data.

UNESCO possessed enormous records of its activities in Africa, Asia, Europe, Middle East, the Pacific Island and North and South America in the fields of education, information and culture. These records are found in all their archives and libraries in book forms and computer diskettes. Several textbooks are written on UNESCO roles and functions. They are also found in the internet, public and private

libraries of countries of the world. Hence indeed it is not an easy task to go through this information on the subject matter.

In addition to the above there is the problem of the cost of obtaining these data. Books and journals are expensive to get even going through the internet is not cheap. Every step taken to procure information in the internet and printing it must be paid squarely.

Where the required information on UNESCO activities is obtained, there is still the problem of analyzing the statistical data which are very technical in some instances. There is the problem of time to study the books and records of UNESCO activities in education, information and culture all over the world. Notwithstanding the above problems the researcher shall take the bull by the horn in order to cross these difficult hurdles so as to present the best study into UNESCO's activities above aimed at promoting and protecting human rights in education, information and culture.

1.5 SIGNIFICANCE AND JUSTIFICATION OF THE RESEARCH

The need to know the basic roles of UNESCO in the promotion and protection of human rights to education, information, science, technology and culture in the world, justified the cogent need to undergo this study.

Also, looking at the topic of the research and the problem inherent we can see the significance of researching in this area.

Several countries in the world are faced with war, natural and man made disasters such as earthquake, hurricane, tsunamis, industrial and chemical pollution affect people in these places. Hunger, poverty and diseases affect many societies in several countries in the world. This makes the people and government in such

areas to be lacking in basic rights to education, science and cultural affiliation. UNESCO must do something about them.

The research therefore becomes significant because it shall examine how UNESCO tried to provide education, information, knowledge on science and culture of those societies affected. So that in the final analysis, the problems associated with the provision of education, science and culture shall be studied in a way that some laudable solutions could be preferred to ameliorate these problems. This will enhance the performance of UNESCO in all its field of endeavour. Thus, this research topic is very significant in the contribution to knowledge on UNESCO activities worldwide.

1.6 LITERATURE REVIEW

A lot had been written on UNESCO and its activities not only in Nigeria but world wide. This is because it is an important agency of United Nations.

The first literature that comes to mind in respect of the subject matter in Nigeria is the book written by Professor Sylvester M. Ngu². He highlighted some aspects of UNESCO activities as an agency of United Nations without exposing the actual role they play in fostering human rights in the field of education, science and culture.

Also Dr. M.T. Ladan's book on human rights³ merely discusses on the administrative aspect of human rights protection in Nigeria without extending his examples of UNESCO activities to other countries of the world.

Likewise the book: "Human Rights Made Easy" by Tokumbo Ige and Olumide Lewis⁴ merely discusses the concepts of human rights duties and freedom side by

² "International Organisations and Human Rights (2Ed.) Pub. By Dada Press Ltd, Ilorin (1995) pp. 01-131

³ "Law, Human Rights and Administration of Justice in Nigeria pub. By A.B.U. University, Press Zaria (2001) cap. 1&2

side with the international covenant on Economic, Social and Cultural rights. However, they did say something in relation to social and cultural rights which UNESCO is the advocate. But not much is said on how effective these roles UNESCO play in advancing educational, scientific and cultural rights of members of United Nations.

'Human Rights and the Administration of Criminal Justice in Nigeria' is another book written by M. Ayo Ajomo and I.E. Kagbue⁵. This book merely focus on the criminal aspects of the breaches on human rights in Nigeria without specifying the aspect UNESCO plays in fostering education, cultural and scientific rights.

Osita Nnamani Ogbu in his book "Human Rights law and Practice in Nigeria"⁶ actually tried to give a fair account on the origin and development of Human Rights under the United Nations Charter, 1948. But he failed to clearly link UNESCO activities in the promotion of human rights to education, science and culture worldwide. He limited his studies to Nigeria only.

However Professor Obilade in a workshop presented a paper titled "Text for Human Rights Teaching in Schools"⁷. But the work is merely an introductory aspect of human rights. It does not touch on the aspect of education despite the fact that the target group is school.

All said and noted it can be seen that despite the fact that some scholars tried to write on human rights, they do not specifically research on the actual works of UNESCO in protecting human rights. None of them wrote on the importance of the rights to education, science and culture.

⁴ 3rd ed. (1999) Pub. By the Legal Research and Resource Development Centre, Lagos.

⁵ Published by Nigerian Institute of Advance Legal Studies Lagos (1991) Cap. 1 pp.3-35

⁶ Published by CIDJAP Press Enugu (1999) Cap. 1

⁷ 3rd Seminar/Workshop Organised by Constitutional Right Project, 1999 (Lagos).

Therefore, this study is to examine the role of UNESCO in the promotion and protection of human rights as mentioned above.

The research shall look at the origin, nature, scope and classification of human rights. It will then go further to study the role of UNESCO in the promotion of human rights through education, science and cultural evolution, respectively. So that in the final analysis cogent suggestions and recommendations shall be made so as to enhance the performance of UNESCO in its role of providing education, scientific knowledge and cultural advancement of the world.

1.7 RESEARCH METHODOLOGY

The methods adopted for this research is basically doctrinal. It is doctrinal in the sense that both primary and secondary sources of information shall be employed.

For example textbooks, official gazettes, United Nation treaties and conventions, law reports, journal, articles seminar and conference papers on UNESCO activities shall be made reference to.

Also data from the UNESCO offices in Nigeria and the internet shall be used and accordingly acknowledged.

Finally, both public and private libraries shall be visited in search for information on the subject matter.

1.8 ORGANISATIONAL LAYOUT

The research is made of five chapters.

The first chapter gives the introductory background of the subject matter. This includes the aims, objectives scope and problems of the research as well as the significance and methodology of the research as well as the literature review.

Chapter two gives an insight into the nature, origin and scope of the human rights on the one hand and the classification of the rights on the other hand.

Whereas chapter three discusses UNESCO its origin, development and structural organization of the Agency.

In chapter four, an exposition is made of UNESCO's roles and functions in the promotion and protection of human rights through education, science and culture

The concluding chapter is provided in chapter five. It gives a general summary of findings in the research work and concluded by preferring laudable suggestions and recommendation on the subject matter.

CHAPTER TWO

2.0 NATURE AND SCOPE OF HUMAN RIGHTS

2.1 INTRODUCTION

In recent years, human rights have developed around the areas of collective rights or the rights of people; especially minorities and indigenous native. The rights of women, persons with disabilities and other disadvantaged people within the society is now an important aspect of human rights, with a need to protect these rights being recognized by many nations and governments. There are also a group often referred to as the third generation rights for example the rights to development, proclaimed by the General Assembly of the United Nations in December 1986 and provided for in the African Charter on Human and People's Rights.

In the global efforts towards the protection of human rights, the United Nations adopted the Universal Declaration of Human Rights on the 10th December 1948. It was followed by more specific covenants. The Genocide convention, the International covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Other International covenant exist under the United Nations; like the Convention on the Elimination of Racial' Discrimination, the convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Discrimination in Education, and the Convention on the Rights of the Child.

Human rights thus, has these international laws, treaties and customs of general practice that has acquired the force of law, general legal principles, judicial decisions both within the international and national court system as its source of expression, and have been indispensable in the promotion and protection of human rights principles.

On the regional level, there are presently three regional human rights system, namely, the Europeans, the Inter-American and the African. The inter-American court was (established in 1978).

The African system has the African Charter on Human and People's Right which entered into force in 1986 and has the African Commission to protect the rights of people within this region. The OAU Assembly of Heads State has approved the establishment of an African Court on Human and Peoples Right. However, only three countries have ratified the protocol establishing the court.

The European system arose from the Helsinki Final Act (1975) and comprise of all European countries. There is a Council of Europe concerned with human rights dating as far back as the Congress of Europe, convened at the Hague in 1948 by the International Committee of Movement for European Unity and its best known Convention are the European Convention on Human Rights (1950) and the Social Charter (1961). There is the European Commission and Court to monitor European Convention, which is similar to the African Charter and the Inter-American Convention. However, the European court and the European Commission have been merged into a central body to monitor, protect and promote human rights.

2.2 THE ORIGIN AND NATURE OF HUMAN RIGHTS

What is known today as human right is a process that has taken years in the story of mankind. It has been a process which has gone through many stages.

The development of human rights began in Greece, around the year 300 B.C. Philosophers then, began to take interest in studies that bothers on the relationship that

exists between the society, the state, religion and the individuals that make up the city state.

A group of people known as the stoics were the first people to discuss their perception of the world and the role or place of man. They claimed that human beings were the masters of their own destiny. To them, a person's destiny did not depend on the gods.

The contributions of Plato a philosopher, laid the foundation for the concept of a universal and eternal set of laws derived from and based on the dignity of the individual human being.

The Sophists later on developed the notion of a Natural Law. They claimed that there were two sets of laws; natural laws and man-made laws. Natural laws were eternal and unchangeable and applied to the whole world. Man-made laws were valid if only they agreed with natural laws. Natural laws were the laws set out in the Ten Commandments and certain other laws of Moses; they are the laws of God. While man-made laws are the laws made by men for their good governance.

The doctrine of natural law was presented as far back as in 1689 in the works of a philosopher, John Locke. According to him, man was originally in a state of nature (wild and free to do whatever he wants, irrespective of others) before any state or country existed and all people had some rights and duties. An organized country or community was established by means of a social contract, the individual surrendered some of his rights to the community. If his rights were abused the individual had the right to rebel against the community and withdraw all the rights he had voluntarily submitted to the state.

By the 17th and 18th century a group of people known as the Rationalists provided for what was to become the doctrine of individual rights. Rationalists base their thought on reason and logic but to them natural laws were not subject of expression.

The word 'right' is derived from the Latin Word *rectus* which in the noun form means that to which a person has a just and valid claim, whether it be land, a thing or the privilege of doing something or saying something. We have what is called a legal right which is either the liberty (protected by law) of acting or abstaining from acting in a specific manner or the power (enforced by law) of compelling a specific person to do or abstain from doing a particular thing. A legal right is thus the capacity residing in one man or a group of men of controlling, with the assent and the assistance of the state, the actions of others⁸. 'Human' has been defined as "pertaining to, characteristic of, or having the nature of mankind"⁹ – moral and rational creatures. Human rights are therefore rights which all persons everywhere and at all times equally have by virtue of being moral and rational creatures. They are inherent in any human being simply because of his humanity – the birth-right of all mankind. The expression 'human right' in its widest connotation embraces those civil, political, economic, cultural, group, solidarity and developmental areas which are considered indispensable to a meaningful human existence. 'Right' here is used in a composite sense and not in the strict sense and includes both moral and legal rights. Legal human rights are those human rights that are guaranteed by positive law (*lex lata*), while moral rights are claims which ought to be in the positive law (*lex ferenda*). Thus Prof. Osita Eze defined human rights as representing demands of claims which individuals or groups make on society some of which are protected by law and have become part of *lex lata* which refers to the aspirations to be attained in future¹⁰.

⁸ Oputa C.A. Human Rights in the Political and Legal Culture of Nigeria, 2nd Idigbe Memorial Lectures (Lagos: Nigerian Law Publications Ltd., 1988) pp. 38-39

⁹ Webster's Encyclopaedic Unabridged Dictionary of the English Language (New Jersey, Gramercy Book; 1994 p.691)

¹⁰ Eze, OC. Human Rights in African; Some Right Problem (Lagos; Nigerian Institute of International Affairs & Macmillan Nigeria Publishers Ltd. 1984)

Human rights are inherent rights to be enjoyed by all human beings of the global village and not gifts to be withdrawn, withheld or granted at someone's whim or will¹¹. In this sense they are said to be inalienable or imprescriptibly. If you remove right from any human being, he will become less than human. They are part of the very nature of a human being and attach to all human beings everywhere in all society, just as much as do his hands and legs¹². Constitutions and other codes do not create human rights but declare and preserve existing rights. Perhaps, this is why statutory provisions for the first generation human rights is couched in negative terms. For example, to say that no person shall be deprived of his personal liberty presupposes that personal liberty is an existing right¹³.

2.3 NATURE OF HUMAN RIGHTS

The concept of human rights has its philosophical ancestry in the natural law school¹⁴. That is why the expression 'human right' had been used synonymously with natural law and natural rights. Thus Professor Maurice Cranston defines human rights as a 'twentieth century name for what has been traditionally known as natural rights or in a more exhilarating phrase rights of man'¹⁵.

F.E Dowrick had gone further to assert that natural rights are the more appropriate words for natural law. In his words, "the postulates of natural law are general normative

propositions offered by various philosophers as precepts for legislators and state or in international law; they are precepts for law so to call them

¹¹ See the Universal Declaration of Human Rights; A Magna Carter for all Humanity (United Nations Procurement of Public Information) Feb. 1998

¹² Macdonald, M. "Natural Rights in Jeuy Waldron (ed) Theories of Rights (London: Oxford University Press, 1984) p.27

¹³ Nwabhueze, B.O. Constitutionalism in the Emergent States (London: C. Hurst and Co. Ltd., 1973) p.41

¹⁴ Paul Ricoeur (Ed) (Philosophical Foundations of Human Rights, UNESCO, 1986; Karel Vasak (ed), International Dimensions of Human Rights (Pendone, Paris, 1981).

¹⁵ Cranston, M. What are Human Rights? (New York; Taplings Publishers, 1973) p.1

natural rights more aptly expresses the ethical rather than the legal nature of the doctrine¹⁶.

Natural law is predicated on the assertion that there are objective moral principles which depend upon the nature of the universe and which can be discovered by reason¹⁷. In other words, the theory of natural law is based on the reasoning that the rule of human conduct is a deduction from the nature of man as it reveals itself in reason and independent of any man-made enactment. As Paton¹⁸ pointed out, the fundamental thinking in the natural law school is that law is an essential foundation for the life of man in society, based on the needs of man to the demand of universal conception is to attune man-made law to the demand of universal conception of moral standard (justice). The natural law school detected that there is some connection between law and the values of freedom and equality, at least in the sense that a wholly oppressive and arbitrary rule over human beings is incompatible with human nature as conceived by the creator.

The theory of natural law draws its inspiration from nature. It proceeds from the premise that there is a law of nature according to which tenets and principles all things including man himself ought to behave. As human nature is identical in all men and does not vary, its precepts have universal and immutable validity, notwithstanding the

diversity of individual conditions, historical and geographical environment, civilizations and cultures. The content of natural law has however never been constant.

The ancient Greek thinkers conceive natural law as a body of imperative rules imposed upon mankind by nature¹⁹. The classical example drawn from Greek

¹⁶ Dowrick, (Ed) Human Rights – Problems, Perspectives and Texts (England; Teakfield Ltd, 1979)p.11

¹⁷ Lloyd, D. et al Introduction to Jurisprudence (London: ELBS, 1985) p.229

¹⁸ Paton, A Textbook of Jurisprudence (Oxford; Clarendon Press, 1946) p.100

¹⁹ Agbede, I.O. “Legal Implications of Civil Disobedience”, the Guardian, Wed. 29,1993 p.26.

literature is that of Antigone, who upon being reproached by Creon (the King) for defying his command not to bury her slain brother, asserted that she acted in accordance with the immutable laws of gods. In any case, Greco-Roman and medieval natural law thought of duties of man and not rights and tolerated slavery and serfdom.

The most systematic exposition of the concept of natural law was made by the Stoics after the breakdown of the city states²⁰. It was the teaching of the Stoics that by the law of nature all men are equal and there could not be found any rational basis for making a distinction between men. The most important thing which unite all men and make them all equal is reason. Since all men possess reason given to them by nature or the creator of all things, all men are equal. Any difference between men therefore is the result of chance or convention. Because all men share the capacity to reason which is given to them by one common creator, all men are brothers and therefore are equal.

In the hands of seventeenth and eighteen century philosophers, the natural law tradition and its concomitant natural rights theories translated themselves into political liberalism whose centre piece is the theory of individualism. It was the seventeenth and

eighteen century philosophers who elaborated upon the modern concept of natural law as meaning natural rights ²¹. Hobbes, Jean Jacques Rousseau, Baron de Montesquieu and John Locke. Modern conceptions of human rights drew inspiration directly or indirectly from the writings of these philosophers. They postulate that the movement of from the state of nature into society was based on social contract. In their social contract, ‘human nature is posited a priori,’ pre-existing any form of political organization. Various qualities and characteristics

²⁰ Eziofor, G. Protection of Human Rights under the Law (London, Butterworth’s, 1964) p.3

²¹ Shivji, I.G. The Concept of Human Rights in Africa (London CODESRIA Book Series, 1989) p.16

including ‘right’ then pertain to this human and constitute this essential nature. In this sense these rights are said to be inalienable, imprescriptibly or inherent. Jean Jacques Rousseau lamented that man was born free but he is everywhere held in chains.

However, the use of social contract to construct a natural rights doctrine was articulated most fully in the writings of John Locke²². Locke wrote that certain rights self-evidently pertain to individuals in the state of nature. That man entered into the social contract by which he surrendered to the sovereign not only his right, but also the power to preserve order and enforce the law of nature. The individual retained the natural rights to life, liberty and property for those were the natural and unalienable rights of man. The purpose of government is to protect these rights, it is no other end than to preserve the members of that society in their lives, liberties and possession so long as governments fulfils this purpose, its laws should be binding. When it ceases to protect or begins to encroach on these natural rights, laws lose their validity and the government may be overthrown. In this way Locke championed the English Puritan revolution of 1688-1689. This revolution resulted in the English Bill of Rights of 1689. The revolution

and the resulting bill of rights provided a rationale for the wave of revolutionary agitation that swept America and France.

Both countries borrowed largely from English experience and thought, especially as embodied in the writings of Locke, and in the case of America, Locke's commentary on Magna Carta and Blackstone commentaries (1765).²³ After excessive taxation by the English Crown without their consent, the American colonies united against the Crown and seceded from the British Empire. They successfully established a Republic which had studied Locke and Montesquieu and

²² Cited in Lloyds, D. et al op cit. p.115

²³ Philips, O.H at al O. Hood Philips' Constitutional and Administrative Law 6th edn. (London; Sweet and Maxwell, 1978) p.16

who asserted that his countrymen were a "free people claiming their rights as derived from the laws of nature and not as the gift of their government", gave poetic eloquence to the theory of social contract in the Declaration of Independence proclaimed by the thirteen American Colonies on July 4, 1776.

We hold these truths to be self-evident that all men are created equal; that they are endowed by their creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness. That to secure these rights governments are instituted among men deriving their just powers from the consent of the governed, that whenever any form of government became destructive of these ends, it is the right of the people to alter or to abolish it and to institute new government.²⁴

In spite of his pious declaration, the constitution of America as adopted in 1789 did not contain fundamental rights provisions. The bill of rights was incorporated into the constitution in 1791 in the form of the first ten amendments.

The French people followed suit in 1789 when the representatives of the people assembled in the National Assembly, dispensed with the king, took control of the state and assumed sovereignty. They considered that ignorance, neglect or contempt of human

rights are the causes of public misfortunes and corruption in government and resolved to set forth in a solemn declaration these natural, imprescriptibly and inalienable rights.

They declared as follows:

- i Men are born, and always continue free and equal in respect of their rights. Civil distinctions therefore, can be found only on public utility.
- ii The end of all political associations is the preservation of the natural and imprescriptible rights of man, and these rights are liberty, property, security and resistance of oppression.
- iii The Nation is essentially the source of all sovereignty; nor can any individual or anybody of

²⁴ Weston, B.H. "Human Rights-Questions for Reflection and Discussion in Claude, R.P. (ed) Human Rights in the World Community; Issues and Action (Pennsylvania; Pennsylvania Press, 1989) p.13

- means, be entitled to any authority which is not expressly derived from it.
- iv Political liberty consists in the power of doing whatever does not injure another. The exercise of the natural rights of everyman has no other limits than those which are necessary to secure to every other the exercise of the same right, and these limits are determinable only by law
- v. The law ought to prohibit only actions hurtful to society. What is not prohibited by the law should not be hindered; nor should any one be compelled to do that which the law does not require.
- vi. The law is an expression of the will of the community. All citizens have a right to concur, either personally or by their representatives, in its formation. It should be the same to all, whether it protects or punishes; and all being equal in its sight are equally eligible to all honours, places and employment according to their different abilities without any other distinction than that created by their virtues and talents.
- vii. No man should be accused, or held in confinement, except in cases determined by the law, and according to the forms which it has prescribed. All who promote, solicit, execute or cause to be executed arbitrary orders, ought to be punished, and every citizen called upon or, apprehended by virtue of the law, ought immediately to obey, and renders himself culpable by resistance.

- viii. The law ought to impose no other penalties by such as are absolutely and evidently necessary, and no one ought to be punished, but in virtue of a law promulgated before the offence, and legally applied.
- ix. Every man being presumed innocent till he has been convicted whenever, his detention becomes indispensable, all rigour to him more than is necessary to secure his person, ought to be provided against by the law.
- x. No man ought to be molested on account of his opinions, not even on account of his religions, provided his avowal of them does not disturb the public order established by law.
- xi. The unrestrained communication of thoughts and pinions being one of the most precious rights of man every citizen may speak, write and publish freely provided he is responsible for the abuse of this liberty, in cases determined by the law.
- xii. A public force being necessary to give security to the rights of men and of citizens, that force is instituted not for the benefit of the person with whom it is intrusted.²⁵

The rights are however, not granted to all. They were concessions which King John made to his barons—that is, the lords, the knights and other land owners. The Magna Carta however did begin the process of granting certain rights by the King to his subject.

The Petition of Right was passed by both Houses in 1628, King Charles I, first prevaricated but finally assented. The petition is memorable as the first restriction of the powers of the Crown since the accession of the Tudors. The Bill of Rights (UK) is a statute passed by Convention in Parliament of England in December 1689 as part of the Revolution Settlement for declaring the rights and liberties of the subject and settling the succession to the Crown.²⁶

Since the Virginia Declaration Rights 1776, the American Declaration of Independence and Bills of Rights in the form of the first ten Amendments to the Constitution, and the Declaration of the Rights of man and the citizen adopted in 1789 by the French National Assembly, the express recognition and the special protection of

fundamental rights of man in the constitutions of various states have become a general principle of the constitutional law of civilized states, including communist countries.²⁷ But there is the significant difference that the constitutions of communist states include long lists of economic and social rights as well as the duties of the citizens. Moreover, the human rights provisions in these constitutions appear to be manifestos rather than legally enforceable rights.

²⁵ Quoted in Paine, T, *The Rights of Man* (London J.M. Dent & Sons Ltd. 1981) p.95

²⁶ Obaseki, A.O. "The Judiciary and Human Rights" in Akpangbo ed, *perspectives on Human Rights* (Lagos Federal Ministry of Justice, 1992) p.253

²⁷ Oppenheim, *International Law; Treatise* (London: Associated Companies 1955) pp.736-737

Natural law suffered a decline by the end of the 18 century on account of its imprecise and revolutionary content. Historical and evolutionary theories of law contested the universality and immutability of natural law precepts and sought to explain law causally and by reference to certain evolutionary forces. Legal positivists also sought to discourage a prior deduction about the nature and purposes of law, and set out to delimit the province of jurisprudence to a technical analysis, of the positive law laid down and enforced by the state. Prior to the Charter of the United Nations, International Law did not expressly recognize the natural rights of man notwithstanding various developments pointing in that direction. This was predicated on the assertion that nations and not individuals are the subjects of international law. In any case, the treaty of Versailles 1919 that ended the First World War laid down the foundation for the internationalization of certain human rights. The Peace Treaties guaranteed to the minorities "full and complete protection of life and liberty without distinction as to birth, nationality, language, race or religion". All the inhabitants of the territories affected were entitled to "the free exercise, whether in public or private of any creed, religion or belief, whose practices were not inconsistent with public order or morals".

Article 23 of the League Covenant provided that members shall maintain “fair and humane conditions of labour for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend”. They further undertook to ensure just treatment of the native inhabitants of territories under their control.²⁸ In 1926, the Institute of International Law adopted a Declaration of the International Rights of man.

²⁸ Umoruzike U.O. “ the present state of Human Rights in Africa” (1990)

The inter-wars years gave rise to all forms of bestiality and injustices perpetrated by man against man. Under state-ordained massive atrocities were committed. Natural law and natural rights were resurrected. Two factors accounted for the resurrection of natural law. First the shattering effect of world wars, the decline in socio-economic standard and a growing insecurity and uncertainty stimulated a new quest for a moral standard nationally as well as internationally. Social security gave way to doubts and revolts, analytical positivism was bound to give way to a new pre-occupation with social justice. Secondly, the alarming growth of totalitarian regimes called for the development of ideological control which could prevent the cloak of legality being cast around every abuse.²⁹

The end result was the revival of the natural law thinking. However, the reviewed natural law ceased to be a body of universal external codes invalidating inconsistent man-made law, but rather took a relativistic complexion and became ideals that inform and inspire man-made law. Modern natural lawyers therefore do not make their positions so explicitly supernatural, although they too assume certain original conditions.

It was the outbreak of the Second World War provoked by a state imbued with aggressive will for the domination of the world coupled with ruthless denial of human rights, that strengthened the conviction that the international recognition and protection of human rights was in accordance not only with an enlightened conception of the objects of international law but also with an essential requirement of international peace³⁰ for regimes that deny these rights often go further to seek foreign domination and pursue belligerent foreign policy. Adolph Hitler perpetrated atrocities against hundreds of thousands of individuals and groups and subsequently

²⁹ Agbede op cit

³⁰ Appenheim, op cit

exterminated more than six million Jews based on conceived inferiority of some human beings, hence their elimination by the supposedly superior race. Shocked by these acts the international community came to realize that human rights could no longer be left to domestic jurisdiction.³¹ Furthermore, with the dropping of the atomic bomb in the cities of Hiroshima and Nagasaki came the prospects of the end of mankind. It then became obvious that it is not only when human rights are respected that democracy will be secure and the chances of war will be remote.

The term human rights appeared in the public domain for the first time in year 1942 to 1944 in the course of internal policy discussions in the United States on the subject of the principles on which the post-war organization would be based.³² The expression came into everyday parlance only after World War II and the founding of the United Nations in 1945. It replaces the phrase 'natural rights' which fell into disfavour in part because the concept of natural law to which it was intimately linked had become a subject of great controversy, and the later phrase,

'the rights of man' was not universally understood to include the rights of women.³³

The Charter of the United Nations (1945) begins by reaffirming 'faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. It states that the purpose of the United Nations are, among other things, "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples (and) to achieve international co-operation in promoting and encouraging freedoms for all without distinction as to race, sex, 'language,' or religion" and all members "pledge themselves to take joint and separate action in co-operation with the organization for the achievement of these and related ends.

³¹ Anan Kofi, "The Universal Declaration of Human Rights" (1998) CRJ Vol. 8 No. 29 p.30

³² Brownlie, I. *Treaties and Indigenous Peoples; The Robb Lectures*, Brookfield (ed) (Oxford: Clarendon Press, 1992)

³³ Weston, H.P. *op cit* p. 13

Nevertheless attempts to include a Bill of Rights in the Charter failed, rather it was agreed that a bill of rights would be subsequently considered for adoption.

Recognition of human rights received its greatest impetus on 10th December, 1948 when the General Assembly of the United Nations adopted the Universal Declaration of Human Rights. The prayer of Thomas Paine was thus heard. In dedicating the Rights of man to George Washington, Paine has prayed... "That the rights of man may become as universal as your benevolence may wish and that you may enjoy the happiness of seeing the New World regenerate the old...³⁴ Though the Universal Declaration of Human Rights did not, at the time it was adopted, impose any legal obligation on member states, it is symbolic and represents aspirations to which member states strive to attain. As aptly remarked by Pathak.

Through centuries the individual has struggled against the overwhelming power of the state. Today he stands assured in

the conviction that his basic rights so fundamental to him, so fundamental to the essential quality of his life, constitute an integral part of the universal structure of law.

It took the world 18 more years the Universal Declarations to prepare and adopt other bills of rights.. Ideological and political differences – human rights versus national sovereignty, individual liberty versus communal needs – prevented a consensus. The dispute revolved around the question: whether economic, social and cultural interest should be recognized as rights as par with the civil and political rights. The capitalist countries – the United States of America and her allies – were opposed to the uplifting of the status of economic, social and cultural rights, to a position of equality with the civil and political rights. The communist countries –the rmer Soviet Union ad her allies held

³⁴ Paine, op cit

³⁵ Pathak: "The protection of Human Rights" (1978) 18 IJ.I.L. p.272

contrary position, and were supported by the newly independent states from the third world. To resolve the stalemate, the drafters agreed to prepare two covenants, one dealing with civil and political rights, while the other one would deal with economic, social and cultural rights, giving states the option to ratify either or both of them. Consequently, on 16 December, 1966, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were adopted. A myriad of other instruments have since followed.

The nation of human rights has both individual and group dimensions (people's rights). The concepts of people's right refer to a sort of common rights which are to be enjoyed by all in the community. Membership of a particular society is a condition for the enjoyment of his form of right. According to Ian Brownlie, one of the foremost proponents of people's rights, two criteria appear to be involved in the idea of individual rights which tend to be exercised by virtue of

a membership of a group, as for example, the right to enjoy rights without discrimination as to race, colour, and so forth, and the right to freedom of conscience and religion, secondly there is the bolder criteria according to which group rights involve elements of recognition of the cultural or other identity of the group, which recognition of the cultural or other identity of the group, which recognition is not ensured by normal application of the provisions representing individual rights.³⁶

There has been a criticism that to recognize people's rights would be to jeopardize traditional individual rights. For the proponents of people's rights do not in any way involve and subordination of the individual to society or give society preference over and above the individual. According to them, these critics misunderstand the interdependent relationship

³⁶ Brownlie, I Op. cit 29-45

between group and individual rights. For example, legislative measures to protect or advance the interest of indigenous peoples or minorities within a state depend upon and complement existing individual rights.

The peculiar aspect of the African Charter on Human and Peoples' Right is the inclusion of people's rights in this document. This indicates a major departure from the traditional format adopted by most international instruments on human rights. However, the African charter was not the first human right document in which the term 'peoples' was applied in connection with rights. As far back as 1790 the decree of the French Constituent Assembly made reference to both rights of man and rights of peoples.³⁷

2.4 CLASSIFICATIONS OF HUMAN RIGHTS

Several schemes of classifications of human rights have been adopted. Human Rights have been classified into personal rights, political and moral rights,

proprietary rights procedural rights and equality rights. Personal rights include right to life, to dignity of human person, the right to personal liberty, and right to freedom of movement. Political and moral rights include the rights to freedom of expression, freedom of association and assembly, freedom of conscience and religion. Proprietary rights include rights to property and privacy. Procedural (due process) rights include the rights to fair hearing and to have one's cause heard. Equality rights include the right to freedom from discrimination.³⁸

³⁷ Peter, C.M. *Human Rights in Africa. A Comparative Study of the African Human and People's Rights Charter and the New Tanzanian Bill of Rights* (New York; Greenwood, Press 1990) p.53

Human rights have also been classified according to the period they emerged or were recognized. The concept of human rights is not static but dynamic. There are so far three marked stages in the development of human rights. These stages have been called 'generation'. Correspondingly, we have three 'generation of human rights'. This notion of three generations of human rights was advanced by the French jurist Karel Vasak.³⁹ Vasak's thesis is as follows:

'The first generation rights – the civil and political rights – emerged from the ashes of the English, American and French revolutions. They are aimed at securing the liberty of the individual from the arbitrary actions of the state. Included in this category of rights are the claim rights set out in Articles 2-21 of the Universal Declaration of Human Rights.' Also belonging to this category are all the rights guaranteed under chapter iv of the 1999 constitution of Nigeria. These rights are called negative rights because they, by and large, entail negative

obligations on governments not to interfere with the exercise of these rights by individuals.’⁴⁰ However, not all the first generation rights correspond completely to the idea of ‘negative’ as opposed to ‘positive’ rights. The right to life and the right to freedom of association, for instance, some positive actions on the part of government to ensure their realization. What is constant in this first generation concept is the notion of liberty, a shield that safeguards the individual, alone and in association with others, against the abuse and misuse of political authority.

³⁸ See Nweze, C.C Human Rights and Sustainable Development in the African charter – a paper presented at a workshop on human rights organized by the NBA Enugu branch on 17/9/97

³⁹ Weston, op cit. p. 17 vasak was formerly UNESCO Legal Adviser. It is now being asserted that there is a fourth generation of human rights dealing with environmental issues.

⁴⁰ Ibid

The second generation of rights corresponds and barges to the economic, social and cultural rights. These rights emerged with the Russian revolution and were echoed in the welfare concepts which developed in the west as a response to the uses and abuses of capitalism which tolerated the exploitation of the working classes and colonial peoples. Historically, it is a counterpoint to the first generation of civil and political rights, with human rights conceived more in a positive (‘rights to the negative freedom from’) terms.⁴¹ This category of rights is predicated on the assertion that the attainment of a certain level of social and economic living standard is a necessary condition for the enjoyment of the negative rights. These rights therefore entail positive obligations on government to provide the living conditions without which the negative rights cannot be enjoyed. This class of rights is contained in articles 22-27 of the Universal Declaration of Human Rights and Chapter 11 of the 1999 Constitution of Nigeria (Fundamental

Objectives and Directive Principles of State Policy). The African Charter on Human and Peoples' Rights also guarantees some second generation human rights. And the international Covenant on Economic, social and cultural rights is essentially concerned with this category of rights to the extent that UNESCO activities covers the right to education, information and culture which falls under this category of rights. This becomes the main concern of this study.

The third generation of solidarity rights are a response to the progressive unfolding phenomenon of global interdependence. They are products of the rise and decline of the nation-state in the last half of the twentieth century. Foreshadowed in Article 28 of the

⁴¹ Ibid, Negative obligation is by which a state is required to abstain from interference with and thereby respect human rights. A positivist obligation on the other hand is one whereby a state must take action to secure human rights and are generally associated with economic, social and cultural rights and commonly have financial implications. However, they can also be imposed in respect of civil and political rights such as the obligation to protect life by law, to provide prison conditions that are not inhuman. See Harris et al Law of the European Convention on Human Rights 1995, p.19 quoted by Essein Udemé, "Nigerian Judiciary and Human Rights Protection" 1997 JHRLP, Vol.1 No.2 and p.6

Universal Declaration of Human Rights which proclaims that "everyone is entitled to a social and international order in which the rights set forth in this declaration can be fully realized", some of these rights reflect the emergence of third-world nationalism and its demand for a global redistribution of power, wealth, and other important values'.⁴² The rights in this category included the right to development; right to share in the common heritage of mankind; right to self-determination, right to clean and healthy environment; and the right to international peace and security. These rights require international co-operation for their realization. The idea is that the economic development of underdeveloped countries is necessary for their social well-being and political stability, without which they cannot ensure, effectively, the civil political, economic social and cultural rights. The general concern felt in many countries and international

organizations about the need for the protection of the environment particularly against the pollution generated by modern industrial societies – has led to the contention that there is a human right to a clean and healthy environment. And because of the threat faced by mankind as a result of the stock-piles of weapons of mass destruction, it contended that there is human right to peace – that freedom from war is a human right. It is also constituted by the unexplored natural resources under the oceans, which belong to no one country and therefore held to be the property of all mankind.⁴³

There is, however, controversy over the notion of three generations of humans rights. There is no general acceptance of the three categories of rights. For instance, proponents of the first generation human rights do not include the second and third generation rights in their definition of human rights. They regard them to be at best aspirations. First generation

⁴² Ibid

⁴³ Robertson, Human rights in the World (Manchester; Manchester Press, 1982) p.10

proponents inspired by the natural law and laissez-faire traditions are partisan to the view that human rights are inherently independent of civil society and are individualistic. To them, liberty is conceived negatively as absence of restraint. The traditional conception of liberty is best illustrated with the definition of liberty by William Blackstone. He wrote

.... The absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing these measures which appear to him to be desirable, are usually summed up in one general appellation and denomination, the natural liberty of mankind. This natural liberty consists properly in power of acting as one thinks fit, without any restraint or control, unless by the law of nature.

These proponents of the primacy of the negative rights contend that man is first and foremost a human being and not only secondarily a social being. According to Professor Ben Nwabueze human (negative) rights constitute the intrinsic attributes of the human being, the essence of human personality; hence they are called natural rights. For this reason, they are more basic and fundamental to human existence than food, shelter, clothing etc. the latter are also basic and fundamental indeed indispensable for a decent human existence, but they are only extrinsic support, serving to sustain the intrinsic attributes of body, mind and soul and to enable them to be fully realized and developed.⁴⁵

Some schools of thought have expressed the fear that emphasis on second generation rights might lead to the subordination of the first generation rights to the former in the words of the former America Ambassador to Nigeria, Mr. Brain Browne

We realize that there is a school of thought stressing the primacy of economic, social and cultural rights over political and civil liberties. In many countries, has been

⁴⁴ Blackstone, W. The Sovereignty of the Law Gareth Jones(ed) London; The Macmillan Press Ltd, 1973) p.5

⁴⁵ Neabueze, B.O. Military Rule and Constitutionalism (Ibadan; Spectrum Law Publishing 1990) p.x

used as a rationale to suppress free expression and other civil liberties. While the U.S. Government recognizes the importance of these aspirations, experience as sadly taught us that where civil liberties are held subordinate to economic aspirations, a system is created where usually neither of these rights is delivered. Consequently, our human rights policy focuses on basic political freedoms and civil liberties.⁴⁶

On the other hand, defenders of second and third generation rights contend that first generation human rights are indifferent to the material needs of man. To them, basic necessities of life-food, shelter and clothing-fall within the second generation human rights. They do not suggest that first generation rights are outside the definition of human rights. They however, assign such rights a low status and therefore treat them as long-term goals that will come to pass only with fundamental economic and social transformation to ensure the welfare of all. As Julius Nyerere noted:

What freedom has a subsistence farmer? He scratches a bare living room from the soil provided the rains do not fail, his children work at his side without schooling, medical care, or even good feeding. Certainly he has the freedom to vote and to speak but these are meaningless.⁴⁷

Aguda has also observed:

“If a poor man is cheated of his legal right by the state or a member of the ruling upper class who can afford the luxury of litigation in our court, he may have no alternative than to forgo that right and await justice from God..... If however, he is foolhardy enough to enter the temple of justice, he and his family may regret it for the rest of their lives. For in the process – in his pursuit of what he considers to be justice, he may become bankrupt.”

⁴⁶ Osita Eze, op cit

⁴⁷ Julius Nyerere, “Stability and Change in Africa” Address to the University of Toronto, Canada, 1969 reproduced in Africa Contemporary record 2 (1969-1970) pp.G30-31 quoted in Ihonvbere, “underdevelopment and human rights

violations in Africa” in Shepherd G.W. Jr et al *Merging Human Rights; the African Political Economy Context* (New York; Greenwood press, 1990) p.63

The significance of the second generation human rights was also underlined by Justice Bhagwati in the Indian case of *Minerva Mills Ltd v Union of India* where His Lordship said:

The large majority of people who are living in almost sub-human existence in conditions of abject poverty and for whom life is one long unbroken story of want and destitution, notions of individual freedom and liberty though representing some of the most cherished values of a free society would sound as empty words bandied about in the drawing rooms of the rich and the well-to-do and the only solution for making these rights meaningful to them was to re-make the material conditions and usher in a social order where socio-economic justice will inform all institutions of public life so that the preconditions of fundamental liberties for all may be secured.⁴⁸

It has pertinently been remarked that right to property is only relevant to a person who has property, right to privacy means nothing to a person who has no house and can be preyed upon by wild beast; right to life means little to a person who cannot afford the cost of Medicare during sickness, and of what significance is right to personal dignity to a person who live under the bridge?. It is now almost generally agreed that all human rights are indivisible, interdependent and mutually reinforcing. The Council of Europe appears to have accepted this proposition. In its declaration on Human Rights, Democracy and Development, the council states:

The European Community and its member states draw particular attention to the universality and indivisibility of human rights and the obligation of all states to respect them. They stress the important role of development assistance in promoting both economic, social, and cultural rights as well as civil and political liberties by means of representative democratic government.⁴⁹

The controversy appears to have been laid to rest. The Vienna Declaration adopted by the World Conference on Human Rights (1993) states:

⁴⁸ A.I.R. 1980 S.C.

⁴⁹ Quoted in Eze, Osita, Study o the Right to Adquate Housing in Nigeria (Lagos; Selter Rights Intiative, 1966) p

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national regional particularities and various historical, cultural and religious background must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedom.

Liberty is no longer confined to absence of restraint but includes freedom from want, ignorance and disease, the presence of which will render negative freedom patently spurious. Negative freedom in the face of poverty, ignorance and disease will only offer rights which cannot be exercised. Prof B.O. Nwabueze, one of the foremost proponents of the primacy of the first generation rights appears to have made a volte-face. In a recent paper, he said. “The good life, which is the common aspiration of all of us, is a product of both the spiritual and material; it can only be attained by a combination of the inner happiness, that comes from freedom of thought, conscience, emotions, speech and movement with the material comfort implied by economic and social rights like food, shelter, health and medical care, education, clothing etc. these materials things that are needed not solely for the material comforts they provide but also for their role in man’s spiritual well being”.⁵⁰

The purpose served by this controversy is to avoid the use of the notions of liberty and individualism to justify the abuses of capitalism; nor to use the notions of equality and collectivism as an alibi for dictatorship and authoritarian government.

⁵⁰ Nwabueze, B.O. "The Value of Human Rights and Their Challenge for Africa," paper delivered at the Annual Conference to the National Conference of the Nigerian Bar Association at Abuja.

CHAPTER THREE

3.0 FORMATION STRUCTURE AND FUNCTIONS OF UNESCO

3.1 INTRODUCTION

This chapter shall concentrate on how UNESCO was formed. In this regard the origin, structure and functions of UNESCO will be considered. Also, the development and membership of the general conference of UNESCO shall be part of the study in line with its administrative body and Secretariat. The distinctive effects of the Second World War between 1939-1945 caused the misbalance of people world wide politically, economically, socially and culturally. This calls for the need of an international body like UNESCO to be established to cater specifically in the development and protection of Human Rights in the fields of education, information scientific and cultural areas of the world through the United Nations mandate.

3.1.1 ORIGIN AND DEVELOPMENT OF UNESCO

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a United Nations specialized Agency in accordance with the provisions of Articles 57 and 63 of the United Nations Charter. UNESCO came into being almost at the same time with the creation of the United Nations as a body. Like in the case of the United Nations,

the birth of UNESCO was influenced by the experience of the Second World War, as Walter H.C. Laves and Charles A. Thomson (1957, 1958) observed.

These government delegates met in an atmosphere of bitter memories but of renewed hope. The war's destructiveness had surpassed anything previously known to man.

The atomic bomb had been dropped on Hiroshima. With such a weapon of absolute destruction; civilization could survive only if a climate of mutual understanding and mutual trust were created. This universal longing for a better world had already brought adoption of the United Nations Charter at San Francisco. "According to a French Philosopher, that Charter had created the United Nations as a body, and now UNESCO's constitution would give that body a soul".

Thus, in November, 1945, with the Second World War scarcely over representatives of forty-four nations met in London, in the Institute of Civil Engineers of Great George Street not far from West Minister Abbey, to write the constitution for the United Nation Educational Scientific and cultural organization (UNESCO). At this conference, later known as the London Conference were Clement Atlee of Great Britain and Ellen Wilkinson, his Minister of Education, Leon Blum, former French Premier, led the French Delegation, Hu Shih, philosopher, led that of China, while Archibald McLeish, poet and scholar, and Assistant Secretary of State, spoke for the United States. In fact, all the 5 signatories to the UN charter at San Francisco were represented at the London conference, except Ethiopia, Costa Rica, Honduras, Paraguay, the USSR, Belurussia and the Ukraine. The London conference, "determined to create an agency for education as an instrument for peace rather than war, curb the destructive force of

exaggerated nationalism, throw the beam of truth on the claims of racism and establish the human rights of every man.”

Thus, UNESCO was created not only as an instrument for reconstruction, but also as an instrument for building peace through understanding or exchange of useful knowledge to economically less developed countries and for national cultural relations programmes. Prior to the London Conference in November 1945, there had been several efforts on past experiences that helped to shape the UNESCO ideas. Emphasizing this point, Walter Laves and Charles Thomson made the following point:

“UNESCO was also the creature of much history. Countless efforts at international cooperation in the fields of education, science and culture had preceded the London meeting of 1945, in broad terms UNESCO roots extended to ancient times, to the translation of Greek philosopher and science into Latin and Arabic, to the spread of Buddhism, Christianity and Islam. For many centuries, sailors and soldiers, explorers and traders had served as agents of cultural exchange, customs and ideas had been carried from one people to another, sometimes imposed, sometimes welcomed and accepted. Missionaries had promoted expansion of their national customs as well as their religion. Traditionally cultural interchange had been ‘unsystematic, often unconscious of itself, casual, slow-moving and individualistic’.

During the second half of the 19th century, such inter-changes took the form of international congresses and continuing organizations, which were of private and non-governmental character, such as the International Congress of Anthropology and Pre-history which first met in 1966; the Congress of Orient lists; in 1873; the International Congress of Psychology in 1899, and the congress of Historical Sciences in 1898, with similar congresses in the natural sciences. The International Research Council, now

known as the International Council of Scientific Unions, appeared in 1919. This includes scientific organizations in such fields as mathematics, astronomy, physics, chemistry and biology. At the same time a similar movement in the humanities created the International Academic Union, as successor to the ... International Association of Academies. Linked with these movements was a growing recognition by educational leaders of the need for educational co-operation across national

frontiers. All this ultimately led to the formation of inter-governmental organizations, whose activities provided essential precedents for the work eventually assigned to UNESCO.

What is considered to be the most direct official stimulus for creation of an international organization in the field of education, science and culture, came from an organization established three years before the London Conference of 1945. This was a Conference of Allied Ministers of Education (CAME), set up in London in 1942, when the war was still at mid-course. CAME met on the invitation of the Chairman of the British Council and on the initiative of the British Foreign Office and of R.A. Butler, President of the Board of Education, who presided over its session.

The discussion at San Francisco indicated the need for educational scientific and cultural cooperation. Edward R. Stettinius, for example announced for the inclusion in the San Francisco agenda of a proposal that the Economic and Social Council should provide for educational and other forms of cultural co-operation. This undoubtedly, embraced the framework within which UNESCO was to operate. This idea was endorsed

by the London Conference, which also decided that in accordance with Article 63 of the UN Charter, a general agreement on the relationships between the UN and UNESCO was to be worked out to “ensure co-operation and at the same time recognize the autonomy of UNESCO within the fields of its competence.”

We have seen the various factors or experiences that have contributed to the founding of UNESCO. These factors or experiences have been reflected in the UNESCO’s constitution, particularly as provided for in the Preamble and Article 1 on “Purposes and Functions” of the organization. The Preamble, for example, which is worthy of quoting here, provides that:

“The Governments of the States parties to this constitution on behalf of their peoples declare; that since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed; that ignorance of each other’s ways and lives has been a common cause, throughout the history of mankind of that suspicion and mistrust between peoples of the world through which their differences have all too often broken into war;

that the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice of the doctrine of the inequality of men and races;

that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable, to the dignity of man and constitute a sacred duty which all the nationals must fulfill in a spirit of mutual assistance and concern;

that a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind. For these reasons, the states parties to this constitution, believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives; in consequence whereof they do hereby create the United Nations Educational, Scientific and Cultural relation of the common welfare of

mankind for which the United Nations organization was established and which its Charter proclaims".

Thus, provisions for these ideas are contained in Article 1 of the UNESCO constitution of 16th November, 1945, as shown below:

1. The purpose of the organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and enforce the human rights and

fundamental freedoms which are affirmed by the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

2. To realize this purpose the organization will:

a. Collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image.

b. Give fresh impetus to education and to spread culture; by collaborating with members at their request, in the development of educational activities by instituting collaboration among the nations to advance the quality of educational opportunity without regard to race, sex or any distinctions economic or social, by suggesting educational methods, best suited to prepare the children of the world for the responsibilities of freedom;

c. Maintain, increase and diffuse knowledge by assuring the conservation and protection of the World's inheritance of books, works of art and monuments of history and science, and recommendation to the nations concerned the necessary international conventions by encouraging co-operation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications, objects of artistic and scientific interest and other materials of reformation by initiating methods international cooperation calculated to give the people of all countries access to the printed and published materials produced by many of them.

d. With a view to preserving the independence, integrity and fruitful diversity of the cultures and educational systems of the state members of this organization. The

organization is prohibited from intervening on matters which are essentially within their domestic jurisdiction”.

3.1.2 OBJECTIVES AND FUNCTIONS OF UNESCO

It should be recalled that UNESCO was founded on principles based on the experiences of the Second World War:

“To contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, for the rule of law for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by Charter of the United Nations.⁵¹

In order to fulfill its objective, UNESCO has been carrying out a set of programmes involving various forms both direct and indirect action designed to

⁵¹ See Articles 57 and 63 of the UN charter.

deal with the complex problems encountered in the development of education, science, culture and information and by promoting international co-operation.

Thus, UNESCO's first major task was six-fold and which was defined in the decision of the 1946 General Conference ⁵² provided as follows:

1. "To publish pamphlets and material that would aid teachers and describe temporary means by which devastated countries could meet immediate problems.....
2. "To stimulate, and provide information for, and international campaign to identify needs and to collect funds and supplies"
3. "To encourage the granting of fellowship to teachers and educational leaders for foreign study and rapid retraining for their post war jobs.
4. "To assist in recruiting qualified education specialist for field assignment to work with war- devastated countries in meeting critical educational problems.
5. "Youth Service to be promoted in order to marshal young people from many hands in co-operative projects of physical reconstruction; and
6. "To give financial assistance for purchasing of limited quantities of surplus war properties for educational and scientific use"⁵³

3.2 STRUCTURAL ORGANISATION OF UNESCO

To enable the organization to perform its duties effectively, the UNESCO constitution of 1945 as amended in 1980, has provided for a structural organization. For example, Article IV of the UNESCO constitution provides for a general

⁵² Walter Laves and Charles Thomson, "UNESCO: Purpose, Progress Prospect Dennis Dobson London 1957, 1958 p.3

⁵³ Ibidp.3

conference of the organization. Article V of the constitution provides for an Executive Council while article VI provides for the secretariat.

3.2.1 THE GENERAL CONFERENCE OF UNESCO

Membership of the General Conference comprises the representatives of the state members of UNESCO. Article IV (1) of the organization's constitution provides that "the government of each member state shall appoint not more than five delegates who shall be selected after consultation with the National Commission, if established, or with educational scientific and cultural bodies". The General Conference is responsible for the conduct of the policies of the organization. It takes decisions on programmes submitted to it by Executive Board; it may summon International Conference of states on education, the sciences and humanities or the dissemination of knowledge.

In adopting proposals for submission to the member states, the General Conference is expected to distinguish between recommendations and international conventions submitted for their approval. The former required a simple majority while the latter, two thirds majority. Each member state is expected to submit recommendations or conventions to its competent authorities within a period of one year from the close of the session of the General Conference at which they were adopted. Reports submitted periodically by member states are received and considered by the General Conference. The power of electing the members of the Executive Board and of appointing the Director-General lies with the General Conference.

Each member state has one vote in the General Conference. Decisions are reached by a simple majority of members present, except where a two-thirds majority is required. However, Article VI (8)(b) stipulates that:

“A member state shall have no vote in the General conference if the total amount of contributions due from it exceeds the total amount of contributions payable by it for the current year and the immediate preceding calendar year”.

This provision is a bit relaxed by the provision of Article IV (8) (C) which allows such a member state to vote if the General Conference “is satisfied that the failure to pay is due to conditions beyond the control of the member state”.

The General Conference meets every two years in ordinary sessions, extraordinary sessions may take place at the discretion of the general Conference, or if the general Conference is summoned by at least one-third of the member states. The general Conference adopts its own procedures and elects a President and other officers at each session. The conference may set up special and technical committee and such other subordinate bodies as may be necessary for its purposes.

3.3 THE EXECUTIVE BODY OF UNESCO

Article V(1) of UNESCO’s constitution provides that “the Executive Board shall be elected by the General Conference from among the delegates appointed by the member states and shall consist of twenty-four members, each of whom shall represent the Government of the State of which he is a national”, and that the “President of the General conference shall sit ex officio in an advisory capacity on the Executive Board”. Sub-section 2 of this Article, however, stipulates that the “General Conference shall endeavour to include persons competent in the arts,

humanities, the science, education and the diffusion of ideas and qualified by their experience and capacity to fulfill the administrative and executive duties of the Board. It shall also have regard to the diversity of cultures and a balanced geographical distribution.” Members of the Board serve from the close of the session of the General Conference which elected them until the close of the second ordinary session of the General Conference, and shall be immediately eligible for a second term, but shall not serve consecutively for more than two terms – half of the members elected every two years. An executive board is empowered under Article V (5)(a) to prepare the agenda for the General Conference; to examine the programme of work for the organization and corresponding budget estimates submitted to it by the Director-General in accordance with paragraph 3 of Article VI and to submit them with such recommendations as it considers desirable to the General Conference. Acting under the authority of the General Conference, the Executive Board is responsible for the execution of the programme adopted by the conference; and may discharge the functions of adviser to the United Nations, set forth in Article IV (5), whenever the problem upon which advice is sought has already been dealt with in principle by the conference, or when the solutions implicit in decisions of the conference.

The Executive Board meets at least twice a year in regular session. A special session may be convoked by the Chairman on his initiative or upon request of six members of the Board. The members of the Executive Board, although representatives of their respective Governments, are expected to exercise their powers delegated to them by the General Conference on behalf of the conference as a whole. The Executive Board makes all

necessary arrangements to consult the representatives of international organizations or qualified persons concerned with question within its competence, and may request advisory opinions from the International or qualified persons concerned with questions from the International Court of Justice of Legal questions arising within the field of the organization's activities.

3.4 THE SECRETARIAT OF UNESCO

The UNESCO Secretariat consist of the “Director-General and such staff as may be required”. And, as earlier indicated, the Director-General himself is nominated by the Executive Board and appointed by the General Conference for a period of six years, under such conditions as the conference may approve, and shall be eligible for re-appointment. He, or his deputy, participates without the right to vote, in all meetings of the General Conference, of the Executive Board, and of the committees of the organization. He is empowered (Art. V1)(3)(a) to formulate proposals for appropriate action by the General Conference and the executive Board; and to prepare for submission to the Board a draft programme of work for the organization with corresponding budget estimates. He also prepares and communicates to member states and to Executive Board periodic reports on the activities of the organization. The General Conference determines the periods to be covered by these reports.

The Director-General and the staff of the Secretariat (appointed in accordance with staff regulations to be approved by the General Conference) are in accordance with Article V1 (5) to discharge their responsibilities which are “exclusively international in character”. They are expected to refrain from any action which might prepuce their position as international officials. Each state member of the organization undertakes to

respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties. Under Article VII(1)-(3), member states may establish national

co-operating bodies who shall cooperate with UNESCO, while Article X and XI provide for relationships with the United Nations Organization and other Specialized International Organization and Agencies respectively.

CHAPTER FOUR

4.0 UNESCO AND THE PROTECTION OF HUMAN RIGHTS

4.1 INTRODUCTION

The actual role of UNESCO in the protection and promotion of education, information, science and culture in Nigeria and the world forms the subject matter of this chapter. Since UNESCO is one of the organs of United Nations (UN) a careful look at the role the non-governmental organizations (N.G.O) and the governments play in actualizing the goals of UNESCO will be examined. The human rights associations and other civil rights movements, together with UNESCO contribute immensely to the development and protection of human rights, not only in Nigeria or Africa, but the whole world. An examination of U.N. conventions on human rights shall be studied side by side with UNESCO standard settings for human rights in the areas of education, science, information and culture

4.1.1 ROLE OF UNESCO IN HUMAN RIGHTS PROTECTION

Between 1947 and 1949, UNESCO expanded its role of information services to such publications like “A Book of Needs” (two volumes) which outline the basic needs and situation in individual countries; produced pamphlets on children as victims of war;

and also produced pamphlets on war-devastated laboratories, art galleries museum, and libraries. Newsletters were produced which include “The UNESCO Bulletin for Libraries”. The UNESCO Bulletin for Libraries was originally designed to exchange and fill information gap in libraries collection of devastated countries and the availability of duplicates elsewhere, but later became a regular publication on UNESCO aiming to keep librarian up to date not only on book exchange but on

development in libraries sciences. The bulletin also advertised publications offered by individual libraries or by national book centre set up after the war.

Through its Book and Gift Coupon Scheme, has been able to make it possible and easier for new publication to circulate. Under this scheme, one could buy a book coupon, with his own currency; the coupon is then sent to the publishers or bookseller country of resident through the Bookseller Association of Home country. The Association pays in home country’s currency and forwards the book coupon to UNESCO which then help to circulate such books around.

In 1948 the General Conference in Beirut adopted a policy declaration forecasting a gradual transition from aid for war-devastated areas to improving educational facilities in all needy countries. During the same conference, the Director-General was authorized to extend educational aid to the Arab refugees who, during the Arab-Israeli war had fled from their homes in Palestine numbering about 900,000 to neighbouring Arab states including Egypt, Jordan Lebanon, and Syria.⁵⁴

This and other UNESCO’s activities have taken the form of Red Cross Societies, and the American Friend Service Committee.

The above scenario tends to support the proposition of inevitability of co-operation of United Nation Agencies for effectiveness and efficiency. The joint project by UNESCO and UNRWA began with temporary school tent, in a few of the camps. By the end of 1949 there were about 21,000 pupils with more than 500 teacher. By 1956, there were 350 schools for about 100,000 primary pupils and 10, 000 secondary pupils. That was in addition to some 60,000 pupils that has been placed in both public and private school in host countries. The UNESCO, UNRWA

⁵⁴ Ibid.....Pp 5-6, See also Harold Stanley Themes analysis of Representation ideological Criticism of the United Nations ducation, Scientific and Cultural Organisation in the United States 1946.....1954 (Unpublished Ph.D Dissertation Duke University (1995). Pp 273-74

schools were located in Jordan, Lebanon, Syria, and in the Gaza Strip. They have been entirely financed by UNRWA but were under the technical direction of UNESCO, which selected the teachers and supervised the educational programme providing \$85,000 annually for staff salaries. UNESCO has undertaken a similar project in the Republic of Korea an activity which formed part of the entire United Nation Korea Reconstruction Agency (UNKRA) after the war. Thus, in August, 1950, UNESCO's Executive Board authorized the Director-General to dispatch to Korea on the request of the UN Secretary-General, a mission to investigate the needs of the civilian population and to determine how UNESCO could most effectively assist in educational, scientific and culture in Korea. But due to the continuation of the hostilities, this was not possible until 1952.

All these undertakings by UNESCO as shown above were meant to repair damage brought by armed conflict a principle or objective upheld in UNESCO's constitution. UNESCO has been undertaking other projects for the advancement of knowledge in the various fields including the science, all of which, due to time and space constrain cannot be fully discussed here. These undertakings by UNESCO, however, have been basically meant to promote and not necessarily to protect human right. We intent to focus our

attention to those areas meant for direct protection of human right or UNESCO's standard setting.

4.2 UNITED NATIONS CHARTER ON HUMAN RIGHT

Every human being has certain fundamental right which every individual and government must uphold and respect. This concept is rooted in most of the world's religions and culture and is reflected in many legal systems. It can therefore be implied that in every

community despite culture and traditional differences, people have the same basic aspiration and ideal of life. In 1948, the United Nations (UN) General Assembly adopted the Universal Declaration of Human Rights in which many countries reached an agreement on what basic right should be. It states: **“....recognition of the inherent dignity and of the equal and inalienable right of all members of the human family is the foundation of freedom, justice and peace in the world....”**⁵⁵ The United Nations in 1987 described human right in the following manner: **“Human Rights could be generally defined as those rights which are inherent in our nature and without which can not function as human beings.”** Human rights and fundamental freedom enable a person to fully develop and use all human qualities, intelligence, talents and conscience to satisfy both spiritual and mundane needs. They are basic for mankind’s increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. Human Rights are universal and apply to all person without discrimination. Respect for human right need to be upheld at all times, irrespective of circumstance or political systems. The right of any particular individual or group in any particular circumstances can only be restricted if they threaten to curtail similar or comparable rights of other persons. From the above definition, certain basic ideas are significant to our understanding of human rights. First, human rights are inherent in our nature; this implies that human rights are basic, inborn or inseparable qualities or characteristics in us as human beings, without which we cannot carry out basic functions as human beings.

Secondly, human rights are basic for mankind's increasing demand for a life in quest of respect and protection which means that human rights, being part of our existing nature are tools used to achieve and satisfy our needs as human beings in pursuit of respect and protection.

Human rights include social rights, political rights, economic rights, civil rights and cultural rights.

Social Rights: This refer to having the rights and opportunity to be able to live together as a group in a situation where people are able to deal with one another to affect their common welfare/community and it is implied that human beings should be socially conscious and should be able to tackle their social problems. Social rights include:

- Right to the highest attainable standards of physical and mental health
- Right to education
- Environmental rights.

Civil Rights: This includes the rights of a citizen or citizens of a state. It involves citizens being able to respect one another. That is, treating one another politely and courteously, refraining from abuse of other people's rights. Civil rights suggest a more positive observance of etiquette in social behaviour, a sincere consideration of other people's rights. Civil rights include:

- Right to life
- Right to freedom of thought, conscience, religion and expression
- Right to marry anybody (without discrimination).
- Right of every child to necessary measures of protection (without discrimination).

Economic Rights: This refers to right to economic independence, that is, a right to be involved in income generating activities, right to manage one's income account, expenditure of his or her household, business, community. Economic rights include:

- Right to freely dispose of natural wealth and resources
- Right to free choice of jobs
- Right to equal work
- Right to join and form unions
- Right to social security (including social insurance)
- Right to adequate standard of living

Political Right: These guarantees a person right to be involved in political issues. Political rights include:

- Right of every citizen to take part in the conduct of public affairs,
- Right to vote and be voted for,
- Right to have access in general terms of equality to public services of one's country
- Right to equality before the law and to equal protection of the law,

Cultural Rights: This refers to having the right to take part in one's cultural norms and belief which should be respected by other human beings. Cultural rights include:

- Right to take part in cultural life,
- Right to enjoy scientific discoveries,
- Right to freedom of scientific research and creative activity,
- Right to enjoy the benefit of one's own research and creative activity.

The United Nations also includes fundamental freedoms. Fundamental freedoms simply means the quality of being free.

There are four essential freedoms, they are:-

- Freedom of speech and expression,
- Freedom of every person to worship his own way,
- Freedom from want – which means economic well being which will secure to every nation healthy life for its inhabitants
- Freedom from fear, which simply means a world wide reduction of armaments to such a point and in such a fashion that no nation would be able to commit an act of physical aggression against any neighbouring country.

The following are some of the fundamental rights and freedoms that are universally recognized and have been developed over four decades:

- The right to life
- Freedom from slavery
- Freedom from torture
- The right not to face discrimination because of racial or ethnic origin, or religion.
- The right not to be arrested and imprisoned arbitrarily
- The right to fair trial.

4.3 UNESCO'S STANDARD SETTING OF HUMAN RIGHTS

UNESCO's standard setting action proper consists in the preparation of conventions and recommendations, the texts of which, following approval by the General Conference, are submitted to member states for ratification, and acceptance. Article IV (14) of UNESCO's constitution which, sets out the functions of the General Conference, specifically mentions the preparation of these instruments as one of the organization's activities, while Article 1, which defines UNESCO's aim and functions, refers in general terms to international co-operation.⁵⁶ Most of the important conventions and recommendations adopted since 1950, particularly in the 1960's represents only a small part of the vast work which UNESCO accomplishes in accordance with its objectives. Most of them relate to very specific situations such as plans for co-operation in nuclear research; the establishment of high-level institutes for computer science, physics and the administrative sciences, studies on the preservation and restoration of cultural property, the educational action of museums; international competitions in architecture and town planning; the organization, standardization of statistic of various kinds; principles to be followed in archaeological excavations; exchange of publications, the free circulation of objects of an educational, scientific or cultural nature; illicit importation or transfer of ownership of cultural property, and copyright regulation to mention just these. It must, however, be stressed again that due to time and space constraint, it is not possible to analyze all these instruments. We are therefore compelled to focus analysis essentially on just a few most important ones including the right to education, culture and information.

⁵⁶ H.E. Wilaves & C. Thomson Ibid.....p.8 See also (June 19 son, International Conciliation, No. 462 p.34

4.4 SPECIFIC AREAS OF ACTIVITIES OF UNESCO IN THE PROTECTION OF HUMAN RIGHTS IN NIGERIA.

Some of the specific areas in which UNESCO activities are felt in Nigeria today are in the fields of education, culture and information. This is the basic area of concern which this research is out to discuss in a nutshell.

4.4.1 RIGHT TO EDUCATION

The right to education is a principle embodied in the convention, against discrimination in education, adopted by the General Conference on 14th December, 1960. This convention is said to be “the most important instrument established by the United Nations in its fight against all forms of discrimination, sets out to proscribe discrimination in education, it also sets out to further equality of education opportunity.”⁵⁷ It is inspired by two distinct fundamental principles set out in the organization’s constitution, with the degree of commitment differing according to which of the principles is involved.

Under Article 3, states subscribe to a number of specific and immediate obligations designed to eliminate or prevent discrimination within the meaning of the convention, for example, abrogation or amendment of laws, and prohibition of differences in treatment, preferences or restrictions in certain fields. But looking at this from another angle, to give everyone equal opportunity may exist for problems as financial and other resources constraints especially the less developed countries, which

may consequentially call for gradual approach. Thus, the convention makes provision for states to formulate, develop

⁵⁷ See also UN Conference on International Organization 1945. Documents 11 (New York: London UN Information Organization.....) Pemberton O. Proposals. Comments and Proposed Amendments, P.25

and apply national policies which, by methods appropriate to the circumstances and to national customs, aims at promoting equality of opportunity and of treatment in education.⁵⁸

Article 4, of the convention defines the aims and stages of such national policies and the various levels of education, bearing in mind the objectives set forth in Article 26 of the Universal Declaration. The scope of these two articles is clarified by the text of two other articles of the convention. Article 6 of the convention, for example foresees further recommendations to be adopted by the General Conference of UNESCO to define the measures to be taken to ensure, among other things equality of opportunity and treatment; while under Article 7 states that parties to the convention undertake to submit to the General Conference periodic reports on action which they have taken for the national policy defined in Article 4.

Article 5, of the convention lays down a number of principles for the application which states parties to the convention undertakes to “take all necessary measure”. One of the principles defines the objective of education; others are concerned with the parents, choice of schools, religious and moral instructions, the rights of members of national minorities to carry on educational activities. On 14th December, 1960, the conference also adopted a recommendation which allows for differences of formulation and legal scope inherent in these two categories of instruments. The recommendation nevertheless was identifiable in content to the convention. Of course, looking at the convention on

Discrimination in Education of 14th December, 1960, it is not only the Federal States but nearly all states parties to the convention may encounter the problems of interpretation and application of some of the

⁵⁸ Other provisions of the UN Charter applicable to UNESCO include Article 1,2,13,17,48,55,58,62,66,73,76,88,91,96,104.

provisions of the convention. Under Article 3 of the convention, for example, states parties to the convention against discrimination in education undertakes:

- a) To abrogate any statutory provisions, ban on any administrative instruments and discontinue any administrative practices which involves discrimination in education.
- b) To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- c) Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries;
- d) Not to allow, in any form of assistance granted by the public authorities to educational institutions any restrictions or preference based solely on the ground that pupils belong to a particular groups;
- e) To give foreign nationals resident within their territory the same access “to education as that given to their own nationals”⁵⁹

All these provisions, as earlier on indicated in this work will be difficult to interpret and apply in federal states. This is so because education falls within the concurrent legislative list where both the central government and the units share constitutional rights. This fundamental problem undoubtedly led to the General Conference's recommendation of 14th December, 1960, which makes provision for these peculiarities, as also earlier indicated above. But some federal states may interpret this recommendation too broadly to make the whole convention against Discrimination in Education difficult if not impossible to operate

⁵⁹ Preamble of the Constitution of UNESCO of 16th November, 1945, see Walter Laves & C. Thomson...Ibid... pp. 415,6

with them. Apart from the peculiarities in Federal States, as shown above, some of the provisions may still not operate well in any other state-federal or unitary. Under Article 3 (C) quoted above, for example, states undertake:-

“Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance for the pursuit of studies in foreign countries”.⁶⁰

If the above quoted provision is to be given its ordinary meaning, then in accordance with the principle of state interpretation, it must be admitted here that nearly all states – federal or unitary, developed and undeveloped – have been contravening it. Of course, Britain had a record of compliance up to the 1979/80 academic session, when foreign students began to be placed in categories for the purpose of charges for school fees; i.e. the UK students pay the same amount of school fees under the category of “Home Students” less than one fortieth (1/40) of the amount paid by students from the

common wealth countries and other non countries respectively, under the category of “foreign students”⁶¹. Today; apart from some states in the US, it is difficult to come by states parities who rigidly comply with Article 3 (d), which itself is similar to Article 3 (c) of the convention. Yet rather paradoxically, by the 1960’s the UN General Assembly, in conjunction with ECOSOC and UNESCO had developed an intensive World Campaign for universal literacy.⁶²

In fact, by the 1960’s the UN system and its sub-systems. ECOSOC and UNESCO, had demonstrated concerted efforts to further the attainment or achievement of UNESCO’s

⁶⁰ See Articles IV-VI

⁶¹ See Articles IV (i) & (3)

⁶² Article IV (4) (b)

objectives in respect of education. By resolution. 2306 (XXII) of 13th December, 1967, for example the General Assembly decided to observed an international education year and provisionally designated the year 1970 for that purpose. This was followed by ECOSOC’s resolution 1355 (XLV) of 2nd August, 1968, calling on “all UN Agencies, bodies and organs to participate in the programmes of concerted action in close cooperation on international education, stating that UNESCO would assume primary responsibility for the preparation and execution of an international concerted programme in that field.”⁶³

Subsequently, at its 23rd session; the UN General Assembly in Resolution 2412 (XXII) of 17th December, 1969, decided to designate 1970 as International Education

year. It endorsed the programme of action for the International Education year set out in the resolution.

This was adopted by the General Conference of UNESCO and recommended that states take stock of the situation with respect to education and training in their countries and plan, initiate or stimulate action and studies linked to the objectives and themes of the International Education year in the context of their preparation for the second UN Development Decade.

The implementation of this idea was pursued by the ECOSOC, and Secretary General of the UN, in co-operation with UNESCO submitted a report E/4707 and Corr 1&2 on the project. On July 31st 1969, ECOSOC requested UNESCO and other organizations and the organs of the UN system to intensify their co-ordination efforts to pursue the objective of International Education Year, within the context of the overall strategy for development during the 2nd UN Development Decade by further specifying concrete means to realize these objectives.

⁶³ Article IV (8) (b)

The immediate preceding paragraphs in this sub-heading illustrate or support both the propositions and principles of cooperation and co-ordination with the UN systems, with special reference to UNESCO's objectives. The UNESCO objectives or areas in which these propositions are also supported include the Establishment and work of the UN University (UN GA Res 295 (XXVII) of 11th December, 1972; the role of Youth in promoting respect for Human Rights and fundamental freedom. Education of Youths in

respect for Human Rights and Fundamental Freedoms; and the Rights to Health, to mention just a few.⁶⁴

In the case of the establishment and work of the UN University, for example, the idea was first brought out by the UN Secretary General in the introduction to the Annual Report of the Secretary – General on the work of the Organization 1968/69, and was subsequently repeatedly discussed by the General Assembly and by the ECOSOC. This was also examined by UNESCO and the UN institute for Training and Research before the General Assembly adopted it at its 27th session, on the recommendation of ECOSOC, resolution 295 (XXVII) of 11th December, 1972, to establish an international university. To this end, the General Assembly requested the Director General of UNESCO and the Secretary – General of the UN to establish a founding committee of the UN University to define further the objectives and principles of the UN University and draft its Charter. Thus, subsequently, by Resolution 308 (XXVILL) of 6th December, 1973, the General Assembly adopted the Charter of the UN University, and decided that it should be located in Tokyo. And in May, 1974, both the Secretary – General and the Director – General of UNESCO appointed 24 members of the University Council

⁶⁴ Article (8 (c))

In the case of Education of Youth in respect of Human Rights and fundamental freedoms, the International Conference on Human Rights at its 5th plenary meeting on 12th May, 1968 adopted resolution XX, entitled “Education of Youth in the respect for Human Rights and Fundamental Freedoms.” In adopting the resolution the conference recalled the principles embodied in the UN

Declaration on the promotion among youth of the ideals of peace, mutual respect and understanding between peoples and noted with satisfaction that UNESCO and other UN specialized Agencies had been engaged in joint efforts to implement the Declaration.⁶⁵

The “Status of Teachers” is another area supporting the proposition of cooperation, at least, and is therefore worth mentioning in this discussion. Motivated by the realization that the shortage of teachers had been a major obstacle to the realization of the right to education, an inter-governmental conference was convened by UNESCO which, led to the recommendation on 5th October, 1966, concerning the status of teachers aimed at improving the professional, economic and social status of primary and secondary school teachers, and thus resolving today’s very serious problem of the shortage of qualified teachers. The recommendation which contains 146 provisions and covers every aspect of the question, was prepared by UNESCO in cooperation with ILO. It refers to basic texts concerned with the right to education, and in defining the ethics of the teaching profession, and then educational policy, develops some of the principles contained in the Universal Declaration and in the Declaration of the rights of the Child, in particular those concerned with the objectives of education. The recommendation also covers questions of

⁶⁵ Article IV (9) (a)

salaries, leave and social, security, calls on educational authorities to recognize the importance of teaching and to grant teachers terms of employment comparing favourably with those in other professional calling for similar or equivalent qualification.

4.4.2. THE RIGHTS TO CULTURE

The right to enjoy culture has been one of the major areas in which there has been close co-operation between the UN and the UNESCO for many years; thus supporting the propositions on cooperation and co-ordination. It should be noted that apart from UNESCO standard or its role in this field, there have been other UN instruments dealing with the right to enjoy culture. Article 27 of the Universal Declaration of Human Rights for example, provides that:

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts, and to share in scientific, literary or artistic production of which he is the author.⁶⁶

Similarly, Article 15 of the International covenant on ECOSOC on cultural rights read as follows:

1. The states parties to the present covenant recognize the right of everyone
 - a) To take part in cultural life
 - b) To enjoy the benefits of scientific progress and its application”⁶⁷

Also, under article 5 of the International Convention on the Elimination of all forms of Racial Discrimination, States parties undertake to eliminated racial discrimination in all forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment,

⁶⁶ Article IV (10)

⁶⁷ Article IV (11)

inter alia, of the right to equal participation in cultural activities complement UNESCO’s efforts on cultural rights, as illustrated particularly in the Declarations of the principles of international culture co-operation. This declaration, proclaimed

by the General Conferences of UNESCO at its 14th session, on 4th November, 1966, sets out a series of principles in cultural matters:

“To the end that governments; authorities, organizations, associations institutions responsible for cultural activities may constantly be guided by these principles, and for the purpose, as set out in the constitution of the organization, of advancing, through the educational, scientific and cultural relations of the people of the world, the objectives of peace and welfare that are defined in the charter of the UN.⁶⁸

Article 1 (1) of this Declaration emphasizes that each culture has a dignity and value which must be respected and preserved.

Article 1 (2) gives the right and duty to every people to develop its culture, which according to article 1 (3), forms “part of the common heritage belonging to all mankind”. Article IV of the Declaration is basically on the aims of international cultural co-operation in its various forms, bilateral or multilateral, regional or universal. Through its programmes or activities, UNESCO has been promoting these principles. UNESCO, for example, has been organizing intergovernmental conferences as a means to ensure full realization of its objectives not only in Education as already been shown, but also in cultural values. A case in point is the intergovernmental conference on the Institutional Administrative and financial Aspects of Cultural Policies, conveyed by UNESCO in 1970, which concluded that the provision of Article 27 of the Universal Declaration of Human Rights, already cited above,

⁶⁸ Article V (1)

implies that the duty of those responsible for communities to provide everyone of them with the effective means of participating in cultural life, and not merely to

respect their right to participate, thus placing the responsibility for implementing the right to enjoy culture. Regional Conferences of Ministers' on cultural policies were organized in Europe (Helsinki, 1972), Asia (Jogjakarta, 1973), and Africa (Accra, 1978) and the Arab states (1979). Of these, the recommendations of the European, African and Asian Conferences were taken into consideration in the elaboration of the Recommendation of participation by the people at large in cultural life and their contribution to it and were approved by the UNESCO General Conference on November, 26th 1976.

UNESCO has adopted a number of international instruments for the protection of cultural property, including the Hague convention for the protection of cultural property in the event of Armed conflict, regulations for the execution of the convention (1954), and recommendation on the means of prohibiting and preventing the illicit, Export, Import and transfer of ownership of cultural property (adopted in 1970 and 1964 respectively), and the convention concerning the protection of the world cultural and Natural heritage (1972). UNESCO has also undertaken extensive international campaigns to safeguard endangered sites and monuments, to protect the cultural property of developing countries, and to encourage studies of the cultures of various region. In this regard UNESCO has continued to recognize important cultural sites with the aim of born giving them into global consciousness Ogogbo in Osun state of Nigeria now has site designated as a world heritage site, of UNESCO. The Ogogbo festival of purification how attracts global audience every year.

The UN General Assembly has, on several occasions, requested UNESCO to present its views on the preservation and further development of cultural values, and to continue and extend its efforts in this field. The UNESCO Director – General submitted a communication

on the subject (A/9227) of 18th December, 1972, and was considered by the Assembly at its twenty-eight session, in 1973; the UN General Assembly took note of the report and expressed its conviction that, on the one hand, intensified efforts must be made to prevent the misuse or abuse of scientific and technological developments which endanger the distinctive character of all cultures, and that, on the other hand, all necessary steps have been taken towards the presentation, enrichment and further development of national cultures and ways of life.⁶⁹

In paragraph 4 of resolution (3148 XXVIII), the UN General Assembly requested the Director – General of UNESCO to study, in co-operation with member states, all implications flowing from the existence of legislation for the protection of the international artistic heritage, including problems of exchange and the voluntary return of various cultural works. The UN General Assembly, in paragraph 5 of this resolution also recommended that the Director General should initiate the preparation of an inter-disciplinary programme of research in education, mass communication and development planning, designed to preserve and further develop and promote wider knowledge of distinctive cultural values in this era of accelerated scientific and technological development, and in particular should;

- a) Assemble information on the above mentioned problems in various social and cultural contexts,
- b) Promoted the international exchange of information concerning the development and application of methods now employed by states for the preservation and further development of cultural values; and

⁶⁹ Article V (

- c) Analyze the role of the mass media in the preservation and further development of cultural values in particular with respect to integration of the mass media into national cultural policies.⁷⁰

The UNESCO Director – General was also requested by the UN General Assembly to report at its 31st session on the progress made in implementing the resolution. This was complied with in the Director – General’s report (138A/3III, annex) which gave detailed descriptions of the work of UNESCO in the preservation and presentation, in cultural exchange and development, and the social and cultural implications of scientific and technological progress, and in the free flow of information and the development of communications integrated with cultural policies. UNESCO also complied with the G.A. request with respect to the exchange and voluntary return of cultural works. Similarly, the research called for in paragraph 5 of the UN General Assembly resolution 3148 (XXVIII) of 14th December, 1973, has also been carried out in various UNESCO’s programmes.

The Universal copyright convention of 1952 is also worthy of mentioning in this discussion. In order to ensure realization of the right of countries and their nationals to copyright protection of literary, scientific and artistic works; and thereby to facilitate wider dissemination of the works of the human mind and increase international understanding, UNESCO adopted the Universal copyright convention of 1952, revised in 1971, to include provisions facilitating access of developing countries to literary, scientific and artistic works. There has been quite a number of UNESCO’s standards and activities for promotion of cultural values with the UN organs and/or other UN specialized Agencies, as the above discussion has illustrated. Thus, just like our analysis of the Right to Education in the preceding sub-heading, the analysis of the right to

⁷⁰ Article V (3)

enjoy culture now being concluded also support both the propositions or principles of co-operation and co-ordination within the UN system advance earlier in this study.

4.4.3. THE RIGHT TO INFORMATION

There has been a growing interest in the direct influence of public opinion upon domestic and foreign policies. With the growth of public education and of radio, press, and motion pictures the mass media became increasingly important instruments of education and propaganda in influencing public opinion. During the World War II, both authoritarian as well as democratic countries relied extensively on the mass media of public persuasion that delegates to the San Francisco and London Conferences appeared to have automatically appreciated the importance of the mass media in building the peace. The inclusion of mass media in UNESCO's sphere of influence has been the brainwork of the United States. Its delegation at the 1945 London Conference secured the inclusion in Article 1 of the UNESCO constitution of provisions stressing the organisation's responsibility to collaborate in the work of advancing the mutual knowledge and understanding to peoples, through all means of mass communication. It also introduced at the London Conference a social resolution on "Media of Mass Communication and their place in UNESCO" which is referred to as "the paramount importance of the media of mass communication advancing the purpose of the United Nations to maintain international peace and security by the spread of knowledge and mutual understanding. In fact, at the first session of the general conference in 1946 the United States pressed for a world network of radio stations".⁷¹

⁷¹ See Articles IV-V

The United States' effort to include mass communications, as a subject within the jurisdiction of UNESCO was not quite appreciated at the early stages by many countries. Many poor and/or smaller countries, feared that the powerful nations who use them for the advancement of "cultural imperialism", and the smaller nations would be drowned out, their peoples overwhelmed and their cultures destroyed by a flood of alien propaganda.

Another reason was lack of acceptable and imaginative projects. There was, in addition to the above two factors, an increasing recognition of the limitations of mass media for real communication between peoples. Thus, the expert committee on Education for International understanding and co-operation set up by the Director General in 1962 acted in its report that idea relied upon for international understanding and co-operation are well suited to radio, press, film and television. And that the term "mass media of communication" is rather unfortunate, "since conjures up the vision of someone in authority projecting an image or message to a great passive general public –mass man".⁷²

Thus, as regards the advancement of knowledge, UNESCO has concentrated its activities in mass communication to stimulate the flow of information, and to strengthen facilities for international communication through press, radio, film and television. And, as a modest contribution communication through press, radio, film and television, and as modest contribution to the first objective, UNESCO issued the "UNESCO World Review" and UNESCO features".⁷³ Both of which were merged in 1955 under the title of the first publication; then a monthly publication known as "Courier".

⁷² Ibid

⁷³ Ibid

It has been indicated above that the free flow of information has been one of UNESCO's major concerns. This free flow of information does not stop at freedom of expression. It also implies the elimination of other obstacles impeding the free flow of books, publications and all kinds of materials that provide a vehicle for thought and knowledge. Thus, in the first one decade or thereabout, the General Conference of UNESCO adopted four agreements and conventions designed to facilitate the free flow and exchange of such material, which include:-

1. The Agreement for facilitating the International circulation of visual and Auditory Materials of an Educational, Scientific and Cultural Character, adopted on 10th December, 1948, to which 23 states are parties.
2. The Agreement on the importation of Educational, Scientific and Cultural Materials, adopted on 17th June, 1950 to which 62 states are parties
3. The Convention concerning the International Exchange of Publications adopted on 3rd December 1958, to which 33 states are parties, and
4. The convention concerning the Exchange of official publications and government Documents between states, adopted on 3rd December, 1958, to which 32 states are parties.⁷⁴

For some time now UNESCO has been so much concerned with the possible application of space communications technology to further education science and culture, taking into account the need for ensuring a balanced and free flow of information in the use of satellite broadcasting. In 1962, for example, the General Conference considered the impact the new technology of communication by artificial satellite might have on the achievement of UNESCO Objectives (UNESCO doc 12/R.3II) UNESCO finally came out with a set of principles on the use of satellite Broad-Casting for the free flow of

⁷⁴ Ibid

information, the spread of Education and Great Cultural Exchange which was adopted by the General Conference at its 16th session in 1972.

In respect of these activities, indicated above, UNESCO has issued a number of audios on the use of satellite broadcasting, including space communication and the Mass Media (1964), communication satellite for Education, Science and cultural (1967), broad-casting from space (1970), a Guide to satellite communication (1972) and planning for satellite Broadcasting (1977). UNESCO has also provided advisory services to various countries regarding the possible educational use of satellite broadcast, and has convened regional meetings of experts to study the subjects jointly with the United Nations. Just like the other two areas of UNESCO's activities previously discussed in this chapter, UNESCO's activities in respect of the right to information has been strengthened by the co-operation of the UN system and/or other sub-systems of the UN system. The General Assembly of the UN, for example, has encourage UNESCO by requesting it (UNESCO) to continue further the programme for the application of new technologies of communication for achievement of rapid progress in education; to keep up to date as far as possible, its survey on this subject, and to report, as appropriate, to the commission on Human Rights and to the ECOSOC.⁷⁵ A similar encouragement has been given to UNESCO by the UN in UN General Assembly Resolution 31/139 of 16th December, 1970, with specific reference assistance to developing countries following the General Conference of UNESCO decision earlier in the same year that priority should be give in the execution of UNESCO's free flow of information and communication policies to assisting developing countries to establish and strengthen

⁷⁵ See F/notes 1. above

their information system in line with their needs.

It further decided that assistance should be given to those countries with a view to liberating them from dependence on the developed countries for their communication and information systems. Accepting this decision by UNESCO, the General Assembly of the UN requested UNESCO to report to it (General Assembly of the UN) at its 33rd session in 1978, on the progress achieved in the development of these systems.

All said and noted, these justifiable rights ought to be implemented by their inclusion in the various statutes books and constitutions of all member countries of UNESCO especially Nigeria. This way the benefits derivable from new grounds with area of information technology could be brought closer for the over ride benefit of the people.

CHAPTER FIVE

5.0 CONCLUSION

5.1 SUMMARY

The general introduction to the research has given us an idea as to the background and issues relating to the role of UNESCO in the educational, scientific and cultural developments in these areas in Nigeria and the world generally.

However, current issues on human rights and its development under the UNESCO organization was visualized in detail under chapter two of this work. The collective rights of people such as the minorities and indigenous natives women and children's rights including persons with disabilities as well as poor and disadvantaged persons in Nigeria and the world are clearly brought to limelight.

Thus, the focal points in human rights which are translated into regional and international laws, treaties, conventions and the general customs and practice in these societies has acquired the force of law through legal principles and judicial decisions worldwide.

UNESCO's role is to promote and protect these rights all over the world. This, we have seen especially in the African region whereby, the African Charter on human and people's rights took its bearing in 1986. The African commission is to protect these rights in this region. UNESCO, as we have seen compliment these roles in Nigeria and Africa generally. The research examined the definition, nature and scope of human rights vis-à-vis the role of UNESCO as an organ of United Nations plays in the implementation and protection of these rights and obligations.

Chapter two and three in particular, tries to capture the basic structure and functions of UNESCO in the political; educational, cultural and scientific fields of human endeavour.

It is through UNESCO's administrative organs such as the executive board and secretariat that we are able to see the achievements of UNESCO broadly.

The study gradually took us into chapter four where we literary studied the various antecedents of UNESCO in the actual protection of human rights. In this regard, the role of UNESCO and its active participation in putting into practice the U.N. National rights issues relating to education, scientific and cultural development of Nigerians and the world societies is clearly expounded. These include the UNESCO standard settings of human rights side by side with what is obtainable under the United Nations convention on human rights generally.

5.2 FINDING AND RECOMMENDATIONS

United Nations instruments, whether they take the form of conventions declarations, or recommendations, are effective only to the extent that they are implemented by states acting either individually or collectively. This is true of every human rights instrument, including those within the jurisdiction UN Specialized Agencies (UNESCO inclusive). Although states, in ratifying or acceding to any international convention, accept obligations to give effect its provisions in good faith. However, in accepting certain human rights conventions, contracting states should undertake to put into effect the domestic laws, regulations or administrative provisions or to take the judicial measures necessary to give effect to the provisions of such conventions. Each UN organ or specialized agency responsible for such conventions should endeavour to ensure that these obligations are complied with accordingly, through some kind of supervisory machinery which comprises the following:

- i) Submission of instruments to the competent national authorities (Article.4 (4) UNESCO's constitution),
- ii) Submission and examination of reports of member states;
- iii) Conciliation and Good offices procedure, and
- iv) Communication procedures.

Under Article 4 (4) of the UNESCO's constitution, each state party is obliged to submit recommendations or conventions to its competent authorities within the period of one year from the close of the session of the General Conference at which they were adopted. Also, under Article 3, as amended by the General Conference, each member state shall submit to the organization at such times and in such manner as shall be determined by the General Conference, reports on the laws regulations, and statistics relating to its educational, scientific and cultural institutions and activities, and on the action taken upon the recommendations and conventions referred to in Article 4 (4).

At its session in 1958, the General Conferences of UNESCO decided on the substance of the initial reports, which must include:-

- a) A statement indicating whether the convention on recommendation has been submitted to the competent national authorities
- b) The name of that authority
- c) A statement to give effect to the convention or recommendation; and
- d) The nature of such steps.

The 1950 rules of procedure provide that, in addition to the initial special requirements as shown above, the General Conference may further request members states to submit at prescribed dates, additional reports giving such further information as may be necessary. As stipulated in Article VII of the UNESCO constitution, (as amended), additional

reports are to include information on the laws, regulations and statistic regarding the state's educational, scientific and cultural institutions and activities.

The obligation to report periodically, in a manner determined by the General Conference, is constitutional. It covers both recommendations and conventions and grant members access without making any distinction in the case of issues affecting them, whether they have testified to such issues or not.

Furthermore, several UNESCO conventions provides that state parties thereto should submit periodical reports on their application and implementation. As to the 1950 Rules of Procedures, the General Conference, having considered the reports of member states, to submit its observations in one or more general report to be circulated to member states, to the national commission, and to all other authorities designated by General Conference. Thus, making the observation possible to receive wide publicity.

UNESCO has no constitutional or statutory provision for appeals or for reviewing complaints concerning the implementation of its conventions. Consequently, no general procedure has been established for that purpose. However, as indicated earlier in this discussion, the General Conference of UNESCO, desirous of facilitating the implementation of the convention against Discrimination in Education, adopted on 10th December, 1952, the protocol instituting a conciliation and Good Offices commission to be responsible for seeking a settlement of any disputes which may arise between parties to that convention.

The conciliation and Good Offices Commission instituted by the protocol is a permanent institution consisting of eleven members elected by the General Conference of UNESCO after nomination by state parties to the protocol. Members of the commission must be national of state parties, but must serve in their personal capacity and not as representatives of their respective states. Elected members must be persons of recognized

competence in the field of education as well as persons having judicial or legal experience; and to give consideration to equitable geographical distribution of membership and to the representation, of the principal legal systems. Members are elected for years and are eligible for re-election if re-nominated. They were first elected by the General Conference of UNESCO at its 16th session in 1970 and the commission held its first meeting from 1-3 February, 1971.

If a state party to the protocol feels that another of those states is not giving effect to the provisions of the convention, it may, by written communication, bring the matter to the attention of that state. If the matter is not adjudged to the satisfaction of both states within six months, including the 3 months allowed for the receiving state to reply either state has the right to refer it to the commission.

From the beginning of the 6th year after 24th October, 1968, the date the protocol entered into force, the commission is also empowered to seek the settlement of any dispute arising between states which are parties to the convention but are not parties in the protocol if the said states agree. The conciliation and good office commission's competence is limited to (a) disputes arising between states, and (b) disputes concerning the application or interpretation of the convention.

After the commission has obtained the information which it deems necessary, its function is essentially to ascertain the facts and make available its good offices to the states concerned with a view to an amicable resolution of the matter on the basis of respect for the convention. The commission makes a report on every case. If a solution has been reached, the report has to be brief and confine itself to a statement of the fact and of the solution agreed upon. If, on the other hand, a solution to the disputed is not reached, the report has to indicate, in addition to stating the facts, the recommendations of the commission; and

separate opinions may be presented. The commission may also recommend to the Executive Board or to the General Conference of UNESCO as appropriate, that the International Court of Justice should be requested to give an advisory opinion on any legal question connected with a matter laid before the commission. More over, it is specifically provided that the establishment of the commission must not affect the rights of states to have recourse to other procedures for setting disputes between them, including that of referring their disputes by mutual consent to the permanent Court of Arbitration at the Hague.

In 1967, the Executive Board of UNESCO adopted a decision to the effect that communication received by the organization relating to individual cases concerning human rights, and falling within UNESCO's competence, are considered –after having been committed to the government concerned for its observations, if any – by a committee of the Board, with a report to the Board (UNESCO doc 77ex. dec. 3.3.). The UNESCO General Conference at its 9th session in 1976, invited the Director General and the Board to study the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in the spheres of its competence, in order to make its action more effective.

The development of human rights at both national and international levels has resulted in a modern concept of human right quite different from the philosophy of natural law of the past 16th and 17th century. Contemporary idea of human rights took firm footing in the resolve of the Allies after the World War II that 'assuring the respect for human rights was their war aim'.

Human right today is understood as those rights contained in international laws and instruments, which was the United Nation Charter and the International Bill of Rights particularly the Universal Declaration of Human Rights adopted on December 10, 1948.

The convention on the rights of the child as well as other regional human rights treaties like the African Charter on Human and People's Rights also form the basic contemporary expression of human rights.

Today the concept of human rights is closely linked to the "state" organized society with a government. The concept of human rights now refers to the relationship between the individual and state or its government; their rights to political participation, the freedoms that the individual should enjoy and their claims on the state with regard to the provision of basic needs of life, education, health, among others.

Conclusively, we have observed the areas covered by UNESCO activities in the fields of education, information and culture respectively. It seeks to promote and propagate justifiable rights regionally and internationally. But it is seen that these justifiable rights are only contained in regional and international treaties and conventions only. UNESCO efforts will be fruitless if these rights are not implemented by member countries adequately as the study shows.

Funding of UNESCO has become a major instrument of control. Most of the funding of UNESCO activities comes from United States and other developed countries. The implication of this development is their continued influence in the day to day running of the organization. These countries try to influence areas of activities that UNESCO should focus. The result being that less developed countries like Nigeria have little or no influence over the activities of UNESCO.

It is therefore suggested that developing countries like Nigeria should encourage good governance in every fact. As this will translate into a healthy economy. With a healthy economy Nigeria will not be found wanting in the discharge of her international obligations be it financial or otherwise. And that way, she would be in a position not only to assert herself but command the respect of other Nations.

These rights may seem utopian and unrealisable in the mould of first generation rights but hope is not lost. It is my belief that with persistent pressure

from agencies like UNESCO and other relevant stake holders, these rights may attain the height anticipated in the UNESCO conventions and declarations. This optimism is borne out of progress made so far around the world and Nigeria especially with the Enactment of the child's Rights Act by the Nigerian National Assembly and some states of Nigeria; and its attendant benefits in the area of education. The imminent passage of the Freedom of Information Bill by Nigeria's National Assembly, the making of primary education compulsory for every child of school age in some states of Nigeria, the concept of Millennium Development Goal and Peer Review Mechanism, are all a tribute to UNESCO's ideals for a better society through the promotion of these lofty ideals.

The concurrence by scholars like Prof. Ben. Nwabueze and others that first generation rights may be meaningless without the second and possibly the third generation rights, the campaign for better environmental practices, the Kyoto Protocol on Green House Emission and the obligations it seeks to impose on state parties to the Protocol; the campaign and awareness being mounted by NGO's with the active collaboration of UNESCO on environmental degradation in the Niger Delta, Desert Encroachment in the North and Soil Erosion in the East of Nigeria, etc are all a pointer to the convergence of a unique global consensus on the importance of the activities of UNESCO and related global partners.

BIBLIOGRAPHY

1. Ladan M.T. "Law, Human Rights and Administration of Justice in Nigeria
Pub. By A.B.U. Press, Zaria (2001)
2. Ngu, S.N. "International Organisation and Human Rights (2nd Ed)
Pub.
Dada Press, Ltd. Ilorin (1955)
3. Tokumbo I. "Human Rights Made Easy Published by Legal
Research and
Resource Development Centre, Lagos (3rd Ed.) 1999
4. Ayo M.A. "Human Rights and the Administration of Justice in
Nigeria
Lagos
(Pub) by Nigerian Institute of Advance Legal Studies
(1991)
5. Osita N.O. "Human Rights Law and Practice In Nigeria Published
by
CIDJA Press (Enugu) 1999.
6. Walter L. "UNESCO: Press, Progress Prospect (London, 1957).
7. Oputa C.A. "Human Rights in the Political and Legal Culture in
Nigeria

2nd Pub. By Nigerian Law Publications Ltd. (1988)

8. Eze O.C
By “Human Rights in Africa Some Rights Problems Pub.

Macmillan Nigeria Publishers Ltd. (1984).

9. MacDonald M. ‘Natural Rights; Theories of Rights, (London, Oxford
University Press (1984)

10. Nwabueze B.O
Hurst “Constitutionalism in the Emergent States (London C.

& Co. Ltd. 1973).

11. Paul R.
(UNESCO), ‘Philosophical Foundations of Human Rights

1986

12. Granston M.
Publishers “What are Human Rights? (New York Taplings

1973)

13. Patron A. “A Textbook of Jurisprudence (Oxford Press) 1994

14. Llyon. D. “Introduction to Jurisprudence (London Press) 1985

15. Donrick A.
Teakfield “Human Rights –Problems perspectives (England

Ltd. 1979)

