

The Complex Texture of the Nigerian Legal System: A Philosophical Consideration

Vincent Stephen KABUK¹

Abstract— There is no gainsaying that the nature of law within modern liberal constitutionalism reflects the legal, social, and political aspirations of some communities or nations. Indeed, it is often a consensus-based or contractual arrangement between individuals that recognises some sort of enforceable rules within established procedures. Hence, contemporary analytical perspectives reflect the social relevance of legal rules, which seem to occupy a middle ground between two traditionally opposed extreme positions, the moral and positivist doctrines, that have, through the years, engaged in the "is-ought" debate in legal philosophy. Indeed, this analytical approach broadens the scope of law via the "minimum content" mechanism, which offers a more comprehensive account that accords it both social and political significance. It is a truism that Nigeria professes an ostensibly unified legal system guided by a single constitution; however, its composition is highly complex and fragmentary, such that the legal order is often seen to be overridden and weakened by some intrusive circumstances that seem to undermine established procedural rules and their application. There is no doubt that the multiple legal frameworks within Nigerian law often create legal tensions and a complex legal dichotomy between regions, where traditional and religious laws seem to contradict the formal laws in some contexts. The legal system Nigeria operates is perhaps a complex and dynamic system, which reflects the peculiarities of moral norms based on some cultural and religious values. This implies that different communities continue to operate distinct and irreconcilable normative frameworks within the system, which often generate different degrees of tension in practice. From a philosophical standpoint, the paper examines the complex features of the Nigerian legal system that hinder a unified system, to determine its universality, uniqueness, consistency, and effectiveness within the framework.

Keywords: law; morals; legal system; social context of rules; complex texture of law.

¹ Department of Religion & Philosophy University of Jos, Nigeria. Email: kabukvince@gmail.com

© 2026 the Authors. This is an open access article distributed under the terms of the Creative Commons Attribution License, Attribution-NonCommercial 4.0 International (CC BY-NC 4.0).

INTRODUCTION

It is a truism that recent scholarship in social and political philosophy has raised arguments that the nature and function of law within modern states cannot be fully expressed outside the framework of liberal constitutionalism. Indeed, this argument presents the concept of law as both a mechanism for regulating power and general conduct, and to a large extent, it is a means of safeguarding individual liberty. However, certain philosophical beliefs associated with some scholars like John Locke, Montesquieu, and Jean-Jacques Rousseau established that liberal constitutionalism advances a pattern in which governance is institutionalised or structured by legal principles, often guided by constitutional authority, and legitimised through a collective consent of the subjects (Locke, 1988; Montesquieu, 1989). It is important, therefore, to understand that, beyond its coercive sting, the idea of law in modern guise stretches to include the notion of normativism, reflecting the social, political, and moral aspirations of a given society. The various strands of contemporary analytics present a current debate that further reflects the idea of law as closely related to the domains of morality and politics. This idea is often introduced to resolve a seeming enduring tension between two extreme positions, legal positivism and natural law theory, thereby underscoring, in some sense, the complexity of law as both a social fact and a moral enterprise (Hart, 2012; Austin, 1995).

In plural and evolving societies such as Nigeria, this complexity becomes even more pronounced, as legal rules interact with diverse cultural, social, and political realities (Berman, 2012). Like other modern liberal societies, Nigeria operates under a written constitution that outlines the fundamental principles of governance. This constitution articulates the social, political, and legal arrangements that guide the conduct of its citizens. The Nigerian legal system comprises a body of diverse rules that collectively form its legal framework, which, through political organisation, develops into a comprehensive system of law. This presupposes that Nigeria functions as a sovereign entity, self-governing and free from external domination (Obilade, 1979). The validity of this arrangement derives largely from the general recognition and acceptance it enjoys among its citizens, thereby conferring on it a binding force.

Various sources contribute to the body of legal rules in Nigeria, enhancing its effectiveness, validity, and conformity with global legal standards. Indeed, some scholars often maintain that Nigeria operates a unified and impartial legal system that governs all citizens equally. While this claim reflects the theoretical ideal of law, the practical reality of the Nigerian legal system reveals a more complex texture, particularly in its application (Obilade, 1979).

It is on this basis that this paper examines the conceptual foundations of liberal constitutionalism and its implications for the idea of law. It explores the core features of modern constitutional systems, including the principles of the rule of law and

constitutional supremacy, as well as the notion of law as a consensual social contract. This raises concerns primarily about the possibility of legal overlap and contradictions inherent in existing species of rules that exhibit some glaring “loose ends” (like the multiple framework that characterises the Nigerian legal system). Furthermore, it interrogates the intricate relationship between law, morality, and politics, with a view to mitigating legal conflicts in practice by clarifying the philosophical foundations of legal systems in contemporary plural societies.

LIBERAL CONSTITUTIONALISM AND THE IDEA OF LAW: A THEORETICAL BACKGROUND

The concept of law in the recent debate is often construed beyond a mere instrument of coercion, but expressed as a rational and moral principle that regulates social relations in a way that is consistent with other civic values, including liberty, equality, and justice. Nevertheless, it seeks to establish a political order deeply rooted in incontestable democratic values, such as legitimacy, accountability, and respect for human dignity. It is generally believed that liberal constitutionalism is not restricted to coercion; it encompasses other normative principles that both constrain power and secure the liberty of individuals. The contractual purview of the concept of law, in the most foundational sense, accentuates certain ideas that are fundamental, such as limited government, separation of powers, popular sovereignty, and other democratic culture. Therefore, the popular assumption of the notion of law in liberal constitutionalism is such that it expresses it as normative, institutional, and a social phenomenon; one that balances legality with moral purpose, authority with liberty, and structure with flexibility.

There is no doubt, however, that within the liberal constitutional context, law is often construed to emerge from a form of social contract. This is where autonomous individuals consent by submitting to shared rules in order that a political community is formed for mutual benefit. John Locke and Jean-Jacques Rousseau are the scholars who advanced this idea prominently (Locke, 1988). However, law is profoundly legitimate; its legitimacy, therefore, cannot be thought to be independent of the consent of the governed, tacitly or explicitly. What this means is that the idea of law must not be conceived as some kind of arbitrary imposition of external will, but it must rather be conceived as an expression of collective agreement of individuals aimed at securing order between them. By so doing, the consensual outcome of these mutual individuals forms its foundation, which is institutionalised through representative governance, participatory political processes, and constitutional frameworks that reflect the will and common good of the people. Indeed, it is this procedure that gives it legal standing and legitimacy (Locke, 1988).

The most fundamental attribute of law in modern civilisation is the doctrine of the “rule of law.” This idea is traceable to A. V. Dicey, who advanced the argument that individuals, institutions, and the state, without exception, are all subject to and accountable under the law (Dicey, 1915). The law in this context is bigger than all individuals and everything when properly institutionalised. It is emphasised further that all persons are equal before the law and must not be subjected to arbitrary power. It can be deduced from the above argument that the basic idea of constitutional supremacy is that all laws and governmental actions, no doubt, derive their validity from the constitution; hence, for public confidence in the legal system to be sustained, the law must be predictable, transparent, and fair to all.

Liberal constitutionalism in modern usage is characterised by several core features: first, it is assumed to place certain limitations on governmental power through constitutional means, written or unwritten, which establish or prescribe some sort of restrictions on the authority of the state. This aims, in some sense, at checking the powers wielded by the state authority. Second, it is often meant to guarantee some moral claims of individuals, which include the protection of fundamental rights. It ensures that individuals possess enforceable claims genuinely against the state. This means that the law must recognise and protect specific individual rights. Third, it incorporates the doctrine of the separation of powers, a principle advanced by Montesquieu, which presupposes that the various branches of government, such as the legislative, executive, and judicial arms, are distinct institutions, yet coordinated in a manner that prevents tyranny (Montesquieu, 1989). The idea behind this presumes the principle of checks and balances among the governmental institutions as specified by the law or constitution.

In the most practical sense, liberal constitutionalism also embraces democratic governance, in which authority is derived from the consent of the governed, and judicial review, in which courts are legally empowered to interpret the constitution and invalidate any acts that appear inconsistent with it. The laws are designed to specify the roles of individuals and institutions within the polity.

There exists a dilemma among scholars in social and political philosophy on the one hand, and legal experts on the other. This is a seemingly endless controversy about the relationship between law, morality, and politics. This, perhaps, undoubtedly features prominently in jurisprudence. A philosophic inquiry of this nature is often expressed profoundly in these three domains. The domains of law, morality, and politics are not distinct within the context of liberal constitutionalism. It is only the hard-positivist trends that describe them as separate, but the soft-positivism within the socio-political tradition recognises the complex interdependence of these domains while maintaining their conceptual distinction (Hart, 2012). It is not out of context, however, to think that law is often shaped by political processes and prevailing moral values,

even as it operates as a system of rules and principles governing social order. This is perhaps the reason why the idea of law is attributed a certain anthropological foundation. The idea of interdependence of the domains, however, is apparently an intermediate position that is linked to later works of H. L. A. Hart and other soft positivists of his era, who sought to reconcile the longstanding debate between natural law theorists and legal positivists (Hart, 2012; Austin, 1995).

The Aristotelian-Thomistic tradition, which emphasises the idea of law as synonymous with morality, has served through the epochs as the classical doctrine that provides the foundation for the moral theory of law. For instance, scholars like Thomas Aquinas argue that law and morality are inseparable, contending that an unjust law is not truly law (Aquinas, *Summa Theologiae*, I-II, q. 96, a. 4). Law in this tradition is eternal, immutable, and divinely authored. On the other hand, legal positivists in the contemporary era, like John Austin and H. L. A. Hart, maintain that law and morality are conceptually distinct, and that law is concerned with what “is” and not what “ought” to be, as in morals (Austin, 1995; Hart, 2012). In simple terms, law is not moral, according to the positivist tradition. However, positivism splits into two different prongs: hard positivism, which is an extreme doctrine that describes law and morality as separate and irreconcilable concepts, while soft positivism describes law and morals as separate but reconcilable concepts, meaning that they intersect at some point. This is the idea that, in some sense, moral considerations may influence the creation and interpretation of law, even though moral norms in themselves are not legally binding. It behoves, therefore, to maintain that the modern concept of law follows the path of the postpositivist position; hence, liberal constitutionalism navigates as a middle path between these extreme positions. This is to say, in some sense, that, while it acknowledges the institutional and procedural foundations of law, it also incorporates moral considerations through the protection of rights, the promotion of justice, and the requirement of fairness (Hart, 2012). Politics, however, provides the ground in which laws are created, contested, and reformed, which ensures that the legal system remains responsive to societal needs and values and is made relevant to the emergent social circumstances.

CONCEPTUALISING LEGAL PLURALISM AND THE FRAGMENTATION OF NORMATIVE ORDERS

The concept of “complex texture of law” here is distinct from H. L. A. Hart’s “open texture” (Hart, 2012). While Hart’s idea concerns indeterminacy arising primarily from linguistic limitations and the generality of legal rules, my idea of “complex texture” points to an additional structural source of difficulty. It seeks to explain how multiple normative orders coexist and interact within a legal system while remaining insufficiently integrated or coordinated.

The “complex texture of law” here signifies, roughly, the conflictual tendency that may arise in legal interpretation and application of law, where ununified multiple legal orders and other normative dynamisms are likely to cause tension in a legal system of a given state. The complexity does not lie merely in the indeterminacy of individual rules of the system, but in their varied or irreconcilable normative claims over the same or related matters.

One conceptual point is worth noting: “pluralism” does not necessarily entail “fragmentation.” Legal pluralism, as understood here, implies the coexistence of multiple legal or normative orders and does not necessarily imply dysfunctionality of a legal system, while fragmentation of law signifies the basic idea that the existing pluralistic orders lack sufficient coordination or coherence, leading to dysfunctionality or indeterminacy of legal orders (Griffiths, 1986). Hence, I understand “legal fragmentation” as a problem generated under particular conditions of plurality, rather than on the assumption that plurality itself necessarily produces legal fragmentation.

While it is already established that Nigeria has legal pluralism, this is not the core concern of this essay. Rather, the concern is with the point at which legal pluralism assumes the character of a “complex texture.” This occurs when the existing multiple legal or normative orders interact and produce other legal features such as uncertainty, competing claims of authority, inconsistent application, ambiguity, unresolved issues or indeterminacy, and remain insufficiently coordinated within a politico-juridical order.

When the existing competing normative orders (largely statutory law, customary law, Islamic law, and constitutional principles) do not fit, and their inconsistency becomes unlikely to be reconcilable, and cannot be unified in the face of application, it then becomes what I refer to as “the loose ends of law.” This perhaps is applied in a metaphorical sense to express the idea that a fragmented order within a system exhibits the character of law as a “complex texture.”

THE NIGERIAN LEGAL SYSTEM: STRUCTURE AND COMPOSITION

History has it that the Nigerian entity is an amalgam of the defunct southern and northern protectorates on the 1st of January, 1914, by the then British colonial governor, Sir Frederick Lugard. He merged the Protectorates to bring together the diverse cultures and unite them politically as one people, as a result of the glaring cultural pluralism. The diversities among these groups comprise various factors of historical evolution, disproportionate population sizes, unequal economic resources, and varying levels of educational attainment. Indeed, the various regions had already, at the time, produced a marked heterogeneity in language, religion, socio-political and economic formations, as well as pre-colonial administrative systems, distinct social norms, and ethnic personality types (Adebayo, 2002; Albert, 2012).

The administrative arrangement under the Nigerian Council that guided the amalgamation era of Sir Lugard was replaced by a new constitution, which was introduced by his successor, Sir Hugh Clifford, in 1922. This comprised the Governor, Chief Secretary, Lieutenant Governors, an Administrator for Lagos, the Attorney-General, the Commandant of the Nigerian Regiment, the Director of Medical Services, the Controller of Customs, and the Secretary for Native Affairs. This indeed marked the advent of constitutional development in Nigeria (Nigeria, 1922).

Beyond the constitutional development, there is evidence that Nigeria operated a legal system. The received English law, which consists of the English common law, doctrines of equity, and statutes of general operation, began operation in January 1900. This followed the local ordinance of 1863, which was the body of law that early colonialists formerly adopted to govern the legal system and replaced the local customs. However, the Nigerian legal system was intricately structured and metamorphosed to reflect a framework that aligns with the nation's historical development, socio-cultural diversity, personality types, and constitutional aspirations, given its ethnic composition. It is a truism that the Nigerian nation-state has now evolved to a modern municipal state with a fully developed governmental structure operating under liberal constitutionalism. It may have maintained the legal order inherited as an attendant colonial effect, which formally unified the nation's substantive plurality. The complex composition of the Nigerian nation is feasibly shaped by multiple sources of law, sustained through the roles of the tripartite institutional framework comprising the legislature, executive, and judiciary. Each of these governmental machineries performs a distinct yet interrelated function under the supremacy of the Constitution.

It is, however, important to note that the received English law has exerted a significant influence on the Nigerian legal system. Through the process of legal transplantation, occasioned by colonialism and the doctrine of reception, the system has been patterned largely after the English common law tradition. Nevertheless, other sources also contribute to the Nigerian legal system, which is broadly classified into primary and secondary sources (Obilade, 1979; Erugo, n.d.).

Conversely, the legal framework of Nigeria, like all jurisdictions, is said to consist of primary and secondary sources. Perhaps, the creation of the law cannot be solely by a single organ of government, as other organs are also involved in one way or another in the process of its promulgation. Therefore, it could emerge through primary or secondary sources. The primary source of law is one on which secondary sources are based. In its strict sense of the word, the primary source implies laws emanating from the organs or institutions established and recognised by the state. They are the most authoritative sources of law and serve as guideposts for the future development of law. "The interpretation of the provisions in specific court cases or information books or essays in the form of analytical writings and opinions serves as a mere exposition or

application of the primary materials” (Erugo, n.d.). Thus, laws enacted through the process of legislation in the form of statutes constitute a primary source of law; in the extreme case where the primary and secondary sources conflict, the primary takes precedence.

The primary sources of law in Nigeria consist of the following: (i) the Constitution; (ii) received English law; (iii) legislation (statutes); (iv) judicial precedents (case law); (v) customary law; and (vi) Islamic law (Sharia). Secondary sources of law, on the other hand, are not binding but possess persuasive authority. These include: (i) textbooks and academic writings; (ii) law reports; (iii) legal journals and articles; (iv) dictionaries and encyclopaedias; (v) undomesticated international materials; (vi) periodicals; (vii) newspapers; and (viii) speeches, among others (Erugo, n.d.; Nwogugu, 2007).

However, the Constitution of the Federal Republic of Nigeria practically stands as the most fundamental grundnorm and the ultimate source of legal authority (Constitution of the Federal Republic of Nigeria, 1999). It clearly defines the structure of government, prescribes powers and authority, and guarantees fundamental rights of individuals. Nevertheless, the multiple sources of Nigerian law reflect both indigenous traditions and colonial legacies.

THE COMPLEX TEXTURE OF THE NIGERIAN LEGAL SYSTEM

It is a truism that not all laws are determinate. Indeed, there are some aspects of laws and legal systems that are inherently indeterminate in character. This feature often leads to some difficulties when laws are interpreted and applied in the resolution of seemingly complex legal issues. There is no single reason leading to the indeterminacy of the law; this may arise from either meaning or application, which shows that the indeterminacy of law is often a result of both linguistic limitations and contextual variability that characterise such law, thus creating uncertainty and contestation on the legal outcomes of such laws. The contestations or difficulties in the legal phenomenon, no doubt, result from conflicts between legal norms, changing social conditions, and other situations where the law is apparently silent or ambiguous. In such scenarios, the law must remain unresolved; its determination depends largely on the legal actor's interpretive competence, who must often invoke discretionary moral judgment to determine the outcome. It is, however, the activation of the moral powers (within the context of moral reasoning) of the judge that becomes crucial in resolving such problems by means of the doctrine of the “discretionary role” of the judge (Dworkin, 1977).

The doctrine is consistent with H. L. A. Hart's concept of judicial discretion. He advanced the possibility of inherently complex problems that border on certain legal obscurities in legal rules, in particular, those penumbras that are in relation to future

circumstances that cannot be fully anticipated, which are capable of leading to inherent indeterminacy of legal rules (Hart, 2012). Then, how can this be resolved? Hart, however, developed the concept of “open texture” to curb the challenge of the anticipated limitation within the legal phenomenon. The principle is required in the application of rules, according to Hart, where the interpretive judgement extends beyond their literal meaning by taking into account purpose, context, and other moral considerations, where necessary (Hart, 2012).

It is certain within the legal phenomenon that indeterminate legal issues cannot be left unresolved. Where legal principles are lacking, the moral reasoning of a judge must prevail, as the doctrine of “discretionary role” legally permits within the legal trajectory. This becomes possible because judges do not act merely as mechanical applicers of rules, but they inevitably exercise some moral powers of discretion as moral beings to resolve some legal obscurities in the adjudicatory process. It is, however, important to take into account that the doctrine of discretion is not arbitrary, but is guided by a reasoned judgement of the legal actor (Dworkin, 1977). This is another context of law in which Ronald Dworkin's view aligns with H. L. A. Hart's position. Dworkin's emphasis on principled reasoning is generally seen to complement Hart's belief that the coherent moral principles of the legal actor must be grounded in the process of judicial decision, instead of depending on the rigid rules when obscurities or uncertainty constitute a legal challenge (Dworkin, 1977; Hart, 2012). Perhaps, this perspective clarifies the longstanding debate regarding the question of the limits of strict formalism and the hard-positivist trend; it has also shaped modern legal thought significantly.

Although Hart's mechanism merely captures the linguistic and interpretive flexibility of legal rules generally, which aims at resolving some seeming legal obscurity, it fails to factor in the possibility of a deeper complexity that lies in a legal pluralism that characterises countries such as Nigeria. This broader condition is what I understand as “complex texture of law.”

The concept of “open texture” constitutes the central doctrine of Hart's indeterminacy of legal rules. I differ with Hart's doctrine, which limits the indeterminacy of rules strictly to linguistic and interpretive complications. I am convinced that the determinate difficulty of laws stretches in some systems to include other complexities that characterise a plural legal system that remain deeply fragmented. Modern pluralistic societies are likely to have a multi-layered and differentiated legal system if such laws are not properly unified into a single scheme. If individuals develop the tendency to pick or choose which law is recognisable to them, the system would collapse into disorder. This appears to be the reason why some nations seem to have challenges with the rule of law. Lawyers may argue that countries such as Nigeria, which operate multi-layered legal principles, have a unified single

system. Nevertheless, the existing distinctions and people's attitudes towards each of the legal frameworks that constitute the Nigerian legal system must be taken into account. Consequently, I understand the idea of "complex texture" beyond the sheer formalism of legal procedures, which considers the possibility of tension that may arise when multiple legal orders and other distinct norms and beliefs interact within a single legal system.

One of the main characteristics of law is that it strives for internal consistency with minimal conflictual features (Fuller, 1969). This means that there should be an inherent coherence in any legal principle. A rule within a single legal system should not contradict another rule; otherwise, there should be other principle(s) that resolve them. In other words, a legal system should function as a logically unified whole where various strands of rules, principles, and legal decisions do not have to contradict one another. There are reasons why laws of a system must be logically unified, which leads to predictability, fairness, legitimacy, justification, recognition, and rationality, since they are not merely a collection of ad hoc decisions. Perhaps this presupposes the basic assumption that the law is a system of interconnected norms rather than mere sets of isolated orders or commands.

Although legal experts might be sceptical of the conflictual tension, somehow, the philosophical optical prism dictates the possibility of inherent conflict that the interaction of a multi-layered and differentiated legal system could create. At its core, the principle of the "complex texture of law" considers a certain character of a system of rules that encompasses structural plurality and normative diversity, leading to interpretive and applicative difficulty or indeterminacy in general. These features, however, are evident in the Nigerian legal system, which is widely acknowledged to possess plural foundations, sociocultural diversity, and jurisprudential dynamism (Obilade, 1979).

Broadly speaking, most modern plural societies operate dynamic legal systems, where their legal orders are organised through continuous interaction, tension, and adaptation. And the complexity therein in such systems is often shaped through some historical contingencies that generate peculiar normative ideals for their collective aspirations. The concept of the law in this context suggests that it also functions as a social force. This perhaps affirms the position that the function of law is irreducible to mere command or systems of rules, but rather to some sort of dynamic order entrenched in people's social life. Perhaps, this draws to the Nigerian legal phenomenon, which operates glaringly at the intersection of formal legal authority and informal normative systems. Conversely, this serves as the epicentre where tensions frequently arise between tradition, religion, and modernity. It is important to take this fact into account that the complexity of the legal order that exists in a single system, which supposedly leads to conflict force of rules, is not often the result of the

coexistence of multiple sources of law, but rather because it is leveraged by interests, since legal norms often become instruments through which other benefits and competing visions of social order are negotiated.

The Nigerian laws emanate from the following sources: i. Received English law, ii. constitutional law, iii. statutory law (legislation), iv. judicial precedent, v. customary law, and vi. Islamic law, which coexists within a single legal system or framework. These norms sometimes intersect at some conflictual point in their application, thereby constituting legal difficulty or indeterminacy. There is no doubt that the seeming structural plurality is often a concomitant of competing cultural, moral, and religious values in a society that often seem irreconcilable. The implication here is that the application of such law often lacks uniformity, precision, and determinate consistency, leading to a deepened indeterminate phenomenon of such legal norms (Iwobi, 2004; Lawan, 2014).

Nigeria, indeed, has recorded a catalogue of well-documented interpretive difficulties associated with such an intersection of legal pluralism. The conjoining of seemingly irreconcilable cultural values and the acknowledgement of one-sided religious ideals with no due regard for others within the Nigerian legal framework heightens legal tension more often and appears to place the entire nation on the divisive frontlines. It further creates a north-south dichotomy and ethno-religious plurality, a situation that douses the yearning of the entire citizenry towards nationhood. Conceivably, legal actors would argue that there is unity in the broader legal framework, but the practical reality reveals a deep-seated north-south dichotomy recognisable to people in the various regions, as against a collective attitude. Indeed, this explains the reason why the entire citizenry is inclined towards ethnic and regional allegiance rather than committed to building a collective aspiration to nationhood. It further suggests that there is something fundamentally wrong with the Nigerian legal framework. The legal pluralism that characterises the law does not merely indicate diversity but poses, in some sense, a greater problem of harmonisation. Within a single system, various regions domesticate a particular framework peculiar to them; rather than the laws functioning as a unified system, different regions and communities within regions continue to operate distinct normative frameworks, which are capable of generating interpretive conflicts.

Philosophically, there are substantive differences among the systems, which often generate interpretive tensions between the systems due to their inherent normative variance (Berman, 2012; Griffiths, 1986). The customary law is rooted in the varied cultures and traditions of various regions of the nation; Islamic law (Sharia), on the other hand, is religious in nature and operates predominantly in Northern Muslim areas of Nigeria (An-Na'im, 2008). By contrast, formal law, comprising statutory and common law, is ingrained in constitutionalism and shaped by Nigeria's colonial legacy.

Perhaps this reveals that each of these has distinct, irreconcilable values and sources of authority, or what I refer to as “loose ends of multiple frameworks” that can exist within a single legal system.

The principle of constitutionalism is to provide a balanced approach through the rule of law, which offers an all-encompassing framework for resolving all kinds of social or legal disputes on an equal basis with no exemption. However, people appear obsessed with legal frameworks that reflect their ethnocultural and religious identities within a single legal system. While the customary system (with its regional and cultural peculiarities) seems more congenial to the cultures in the southern half of Nigeria and other non-Muslim communities in the north, an average northern Muslim, on the other hand, adheres to Islamic or Sharia law. They appear to be at home with the principles of such a religious law, even when the outcomes become more conservatively stringent, instead of resorting to alternative frameworks (An-Na'im, 2008; Lawan, 2014). There are several contexts in which all these frameworks are fundamentally distinct, which mark the variations of their normative values. For instance, cases of theft in the northern Sharia jurisdiction are met with more severe and injurious punitive measures than in the southern half, where the customary system is predominantly operational. Perhaps the customary provision is such that balances between punitive and restorative considerations, paving the way for a reconciliatory orientation on issues that border on theft, infidelity, and other civil matters. Its punitive measures seem milder than those of Sharia law (Lawan, 2014).

Similarly, the constitutional provision is explicit about the rights of individuals. And the right that guarantees gender equality is subsumed in the freedom from discrimination (Constitution of the Federal Republic of Nigeria, 1999). The constitutional law safeguards rights and prevents discrimination against individuals. However, this is often held firmly within the contexts of both customary and Sharia provisions. The ascriptions of rights in the Customary and the Sharia system, particularly those that specify what radicalism by protecting individuals, as outlined in the Constitution, in order to curb the seeming legal tension or the loose ends of Nigerian laws.

This situation explains in practical terms the existing conflict between the specified constitutional rights and other traditional and religious autonomy that characterises the system. For emphasis, customary and Islamic practices often conflict with the constitutional provisions, which border on fundamental rights like equality and non-discrimination principles. Perhaps, this raises questions about the practical claims of the constitution to safeguard such ultimate rights and liberties. The Grundnorm seems to be overwhelmed by such obnoxious attitudes towards traditional and religious norms. There seems to be outright disregard for the collective law; this is exemplified by the acts of several non-state actors, extremists, and some Islamic clerics

who have openly renounced both democracy and the constitution of the Federal Republic of Nigeria, claiming they go against the laws of Allah (Abubakar, 2026). No one is held to account by the Nigerian authorities for such an extreme ideology. Even if there must be varied legal frameworks to reflect Nigeria's diversity, this must technically be unified to avoid legal tensions or contradictions. As stated earlier, both legal frameworks must be structured in a coordinated manner to work together toward a common goal, despite their distinct peculiarities.

Yet again, the sources of customary law are largely the people's local cultures and traditions, and these differ from culture to culture. Sharia is essentially built on religious norms, which serve as its source. On the other hand, magistrates and High Courts are confined to the provisions or apply formal law. These, however, constitute the existing styles of legal reasoning within the broader system, despite their peculiarities. Nonetheless, it cannot be denied that some similar cases with similar situations may not produce similar outcomes from each of the frameworks. The nature and intensity of the determination may differ depending on the applicable outcome. This indicates that, given the existing plurality, the broader Nigerian legal system is not logically unified. Thus, under extreme circumstances that border on the intersection of the various frameworks, conflict of determinacy might arise.

The difference in the recognisable normative styles or legal frameworks that are operational in the various regions of Nigeria hints at a noticeable north-south dichotomy in legal culture and expectations. Perhaps, the harmonisation or the reform of these norms with their peculiarities is likely to be perceived as a threat to cultural and religious identities. In other words, due to deep-seated allegiance to regions, harmonisation of the various norms may be seen as eroding long-held cultural or religious heritages, while maintaining pluralism can, in turn, weaken legal certainty and equality. Perhaps this highlights a central difficulty within the Nigerian legal system.

The southern half of the country, and perhaps some non-Muslim communities in the north, are so attached to their cultures and traditions, which define their personalities. While in some parts of northern Nigeria, adherence to Sharia norms can be particularly strong, in practice, its recognition within the region is often imagined by some adherents to precede constitutional considerations (Iwobi, 2004). Conversely, the extremists' position goes as far as dismissing the Constitution, and by extension, democracy as external or secular impositions by infidels (Abubakar, 2026). These perhaps explain the depth of seeming regional attachments to ethnocultural or religious systems in those contexts, rather than to the collectivism of common norms. The crossroads between the multiple-layered legal frameworks within Nigeria's law system often heightens conflictual interpretive tensions since they appear not unified. In other words, the interaction of these competing concerns produces a legal order that is

complex, dynamic, and often marked by tension, hence its description as having a “complex texture” (Obilade, 1979).

CHALLENGES OF LEGAL PLURALITY IN NIGERIA'S FRAGMENTED LAWS

One of the fundamental features of law is the basic idea that legal universality assumes laws apply equally to all individuals, irrespective of their creed, ethnicity, or status. Law, in whichever context, must produce consistent outcomes. Nigeria, like most plural societies, faces such challenges, and the existing multilayered legal framework within the system makes it difficult to integrate and operate as a single legal scheme (Berman, 2012; Hooker, 1975). Perhaps Nigeria strives for the ideals of the rule of law; however, it is often confronted with certain pressures that border on structural, political, religious, and socio-cultural burdens. Hence, this weakens the universality of our legal rules. The interconnected weaknesses are the challenges that plague the Nigerian framework, which I refer to as the “complex texture of law,” or “loose ends of the law.” It is perhaps the situation where multilayered legal rules create an apparent statutory ambiguity or legal grey area, and expand a seeming extra-legal margin or unregulated space of discretion for moral determination. This, to me, is a legal blind spot where many legal questions are unsettled (Moore, 1973).

There are many identified factors associated with the interconnected weaknesses of laws, leading to the undermining of their authority and legitimacy; these are as follows: i. pluralistic laws often lead to conflict between formal and other laws, such as customary and Sharia law. The existing normative pluralism creates legal friction, thereby raising questions on legal relativism and universalism, particularly on matters that involve human rights (An-Na'im, 2008). Perhaps, religious and traditional doctrines hold different views from Nigerian formal laws or the Constitution. ii. The tendency of selective application of legal rules in the Nigerian system is high due to the porousness of the framework. The system often promotes bias, as people tend to apply the system that suits them. It produces some kinds of legal inequality in contrast to the constitutional provisions. This is where the problem of selective justice often finds congenial ground and undermines the rule of law (Ibe & Zakari, 2023). iii. This blurs the consistency and predictability of rules and weakens the law's role in guiding social order. It is assumed that individuals can foresee the consequences of their acts based on established laws, but the layered legal framework of Nigeria's system often makes the scheme seem as if such outcomes depend on undesired external factors, such as wealth, connections, belief systems, or the political climate.

If rules are selectively applied, their enforcement becomes inconsistent due to their plausibly influenceable character. This implies that their outcome will be unpredictable, eroding legal certainty and the predictability of the laws and the system. iv. Multiple-layered legal frameworks within a system are expected to be a unified

structure of overlapping authorities; the enforcement of laws is weakened if the operation of some parts of such distinct frameworks is normatively disconnected from the general rules. Perhaps this often challenges the doctrine of the rule of law in the Nigerian system. Every individual appears to recognise the framework that identifies with cultural or religious identities, with less regard to the general laws. Recognising this fact, the citizen consciously ignores even court orders frequently without consequences, since they are increasingly becoming conscious of the distinction between “law on paper” and “law in practice” (Ibe & Zakari, 2023). v. Due to the gap that the “loose ends of laws” creates, there is bound to be interference and institutional constraints in the general operation of the systems. Certain principles of the frameworks often contradict constitutionalism. In addition to the existing undefined discretions, the gap caused by the loose ends of the law could also make the entire law transactional and a game of preference. This questions the general morality of the system because its legality seems to lose its ethical foundations (Fuller, 1969).

TOWARDS A MORE COHERENT LEGAL SYSTEM

The Nigerian legal system is characteristically complex and seemingly fragmented due to its layered formation that consists of overlapping authorities, historical heritage, and other competing normative claims (Berman, 2012). Such a law or system can only function effectively if certain deeply philosophical questions are answered about the nature of law, authority, legitimacy, and justice in a plural society. The complex character of the multilayered law creates interpretive tensions, leading to the indeterminacy of such laws. The Constitution is perhaps described as the supreme and binding framework for the Nigerian legal system; however, other sources that derive their authority from tradition, community identity, and religious obligation often contradict the universality of some of the constitutional rules (Constitution of the Federal Republic of Nigeria, 1999). The general disposition among Nigerians is that laws that emanate from customary traditions and religious convictions are often perceived as more immediate and binding frameworks than what they assume to be constitutional abstractions. This is the centre of the conflict of seeming legal pluralism, which often challenges the universal claim of constitutionalism in pluralistic societies, like Nigeria (Griffiths, 1986). Now, the central question is, given the challenges of legal plurality in Nigeria's fragmented laws, how can a more coherent legal system be constructed?

It is a truism that legal pluralism, which characterises the Nigerian legal system, presents challenges from different fronts, as argued above. For Nigeria to have a coherent legal system, there is a need for a commitment beyond mere existing written statutes or judicial pronouncements, making the law function with clarity, consistency, legitimacy, wide recognition, and social resonance. These features encompass both

philosophical and practical necessity, requiring an overhaul of an existing legal pluralism with loose ends, which is plagued with institutional fragility and deadened by a socio-political and religious intersection. The restructuring does not have to be essentially integral, as the problem does not lie with the nature of the law, but with how it functions in society; therefore, it requires a sort of reorganisation that involves a three-pronged commitment, which includes a reform of the normative foundations, institutional frameworks, and interpretive practices of the law that dispel possible overlapping authorities.

To have a coherent legal system, certain steps must be taken; first, there must be *prima facie* evidence for the rule of law. This, of course, is the backbone of a comprehensible or intelligible legal system for a pluralistic society. The implication of this is that individuals must be equal before the law, the legal process must be predictable, and the legal norms must remain supreme over other moral and political expediencies. For the rule of law to be strengthened, a relentless commitment is required to confront seemingly persistent sociological realities of the complex legal phenomenon, such as selective enforcement, executive overreach, and weak judicial independence. The texture of Nigeria's multi-layered system of law makes it more congenial to varied interpretations. Hence, its application depends on ethnic and religious convictions on the one hand, and other factors such as status, influence, and political alignment on the other. To curb the situation, the "loose ends of the legal structure" must be harmonised to form a comprehensive whole, by reemphasising the supremacy of the central law. Other minor realignments must not be ignored; judicial autonomy must be reinforced, court orders must be respected, and citizens and officials must be made to recognise the efficacy of the law, and this is what gives it validity. These are the essential steps that make a law a framework of justice, rather than an instrument for power, if the culture of legality must be cultivated in the minds of all and sundry.

Second, there should be clarity in the basic principles of law to reduce conflicts and uncertainty in the interpretation and application of the rules. When the law is ambiguous, it often leads to discretionary abuses and inconsistent enforcement. Lack of clarity and conflictual tendencies of rules make the law vague, contradictory, and overly complex, thereby reducing it to a mere technical luxury rather than a moral imperative. The ambiguity of law and the legal system is not reducible to language, as Hart suggested, but also encompasses the structure and intent of its complex texture (Hart, 2012). Having multiple layers of legal frameworks in itself does not invalidate the system, but the possible "loose ends" of its texture must be harmonised to reduce conflicts or fluctuating preferences, if there must be an intelligible legal scheme for both legal experts, government officials, and other citizens.

Thirdly, the pluralism that characterises the Nigerian legal system reflects cultural and moral diversities, leading to fragmentation and inconsistencies within the legal system. The lawmaking bodies should periodically repeal the law (when necessary), so that all contradicting rules can be systematically reviewed. Codification, systematic review of outdated statutes, and harmonisation of conflicting principles of the law may check the possible tension that the porous texture or loose ends of the law may cause. This does not in any way imply erasing the existing legal diversity, but its coordination within a unified constitutional framework, leading to a coherent dialogue within the system. There should be a judicial clarification of the boundaries for both Customary/traditional law and Islamic/religious law, which must be integrated into a unified legal order of statutory law, rather than being isolated and competing norms. Such reviews, if carefully done, often check the porousness of the separate frameworks of the legal system and unify them at their possible points of intersection.

Lastly, in the process of adjudication and enforcement of the law, the discretionary role is one of the fundamental features in the application of the law. When this is unchecked, it often leads to excessive abuse, leading to arbitrariness, corruption, and unpredictability of legal outcomes. A classic example of this is the recent conduct of Nigerian judges, who leverage the discretionary doctrine by increasingly digressing from the core merits or substance of the case to legal technicalities; and sometimes, legal actors often choose a framework suitable for them for legal determination. To check the anomalies of this phenomenon, there should be guidelines, transparent procedures, and an effective mechanism for oversight for the defined operation of the discretionary role. If individuals and institutions are made to be accountable and guided by the system, the laws will gain their normative force and will have a consistent outcome.

Summarily, the conflictual tendency of complex laws is more deeply conceptual than mere institutional tension. Within the Nigerian context, the tension that characterises the existing complex texture of the legal framework often revolves around two basic assumptions: i. Law as a tool shaped by power, culture, religion, and other practical realities. These basic features serve as the dual determinants that challenge the legal universality and effectiveness by positioning the framework on an aspirational pedestal rather than a coherent scheme.

CONCLUSION

By way of conclusion, the Nigerian legal order consists of a layered coexistence of statutory law, customary ideals, and other religious norms, codified as the formal law. Perhaps, these exhibit a seemingly irreconcilable plural feature that make the interpretation and application of legal laws problematic. From a philosophical point of view, the legal pluralism deeply rooted in the Nigerian legal framework apparently displays overlapping authorities and competing normative claims, making it complex.

It is this intricate character the law exhibits that I refer to as the “complex texture,” a quality that is inherently philosophical rather than merely an institutional scheme, that raises some fundamental questions regarding the nature of law, its authority and legitimacy, and, of course, justice in a plural society.

Recognising the doctrine of “rule of law” in this context beyond a theoretical basis may seem a mirage, as certain rules within the framework seem to have “loose ends” and contradict each other, which often raises interpretive conflicts. There is no doubt that the situation may permit some kinds of selective application within the conflicting range, since they are vaguely defined. If the Nigerian legal order must depend on its formal sophistication, the pursuit of a system that is clear, fair, and consistent with the statutory laws to avoid intrusive overlapping normative authorities within the existing distinct legal framework that constitutes the Nigerian legal system.

REFERENCES

- Abubakar, M. (2026, February 19). Islamic police in Nigeria arrest nine Muslims for not fasting during Ramadan. *BBC Africa Podcasts*.
- Adebayo, A. L. (2002). The fiscal imperative in the amalgamation of 1914. *Humanities Review Journal*, 2(2), 1–12.
- Albert, I. O. (2012). *Security and conflict in Nigeria*. Peace and Conflict Studies Programme.
- An-Na'im, A. A. (2008). *Islam and the secular state: Negotiating the future of Shari'a*. Harvard University Press.
- Aquinas, T. (n.d.). *Summa Theologiae*, I-II, q. 96, a. 4.
- Austin, J. (1995). *The province of jurisprudence determined* (W. E. Rumble, Ed.). Cambridge University Press.
- Berman, P. S. (2012). *Global legal pluralism: A jurisprudence of law beyond borders*. Cambridge University Press.
- Constitution of the Federal Republic of Nigeria 1999* (as amended).
- Dicey, A. V. (1915). *Introduction to the study of the law of the constitution* (8th ed.). Macmillan.
- Dworkin, R. (1977). *Taking rights seriously*. Harvard University Press.
- Erugo, S. (n.d.). Legislation as law in Nigeria. In *Themes on the Nigerian legal system* (pp. 112–127).
- Fuller, L. L. (1969). *The morality of law* (Rev. ed.). Yale University Press.
- Griffiths, J. (1986). What is legal pluralism? *Journal of Legal Pluralism*, 24, 1–55.
- Hart, H. L. A. (2012). *The concept of law* (3rd ed.). Oxford University Press.
- Hooker, M. B. (1975). *Legal pluralism: An introduction to colonial and neo-colonial laws*. Oxford University Press.

- Ibe, E., & Zakari, M. (2023). Executive disobedience to court orders and anarchy in Nigeria. *Nigerian Bar Journal*, 13(2), 17–36.
- Iwobi, A. U. (2004). Tiptoeing through a constitutional minefield: The great Sharia controversy in Nigeria. *Journal of African Law*, 48(2), 111–164.
- Lawan, M. (2014). Islamic law and legal hybridity in Nigeria. *Journal of African Law*, 58(2), 303–327.
- Locke, J. (1988). *Two treatises of government* (P. Laslett, Ed.). Cambridge University Press.
- Montesquieu. (1989). *The spirit of the laws* (A. M. Cohler, B. C. Miller, & H. S. Stone, Trans. & Eds.). Cambridge University Press.
- Moore, S. F. (1973). Law and social change: The semi-autonomous social field as an appropriate subject of study. *Law & Society Review*, 7(4), 719–746.
- Nigeria. (1922). *Nigeria (Legislative Council) Order in Council, 1922*. Order in Council of November 21, 1922.
- Nwogugu, E. I. (2007). *Customary law in Nigeria through the cases*. Fourth Dimension Publishers.
- Obilade, A. O. (1979). *The Nigerian legal system*. Sweet & Maxwell.