

**RESPECT FOR HUMAN RIGHTS AS THE TRUE MEANING OF JUSTICE:  
EVIDENCE FROM THE OBJECTIVES OF SOME HUMAN RIGHTS  
INTERNATIONAL INSTRUMENTS AND ORGANIZATIONS**

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**ABSTRACT**

Since the time immemorial, scholars have never agreed on the meaning of the concept of justice. Surprisingly, however, a look at divergent perspectives offered by scholars to the term may make one confused as to whether there is such divergence in real sense. Conscious of this, and for the purpose of addressing this question, this paper employs doctrinal legal research methodology and investigates scholarly perspectives on the meaning and nature of justice vis-a-vis human rights based International Legislation as well as the working of some human rights based International Organizations to offer authoritative answer to the poser. Consequently, the paper finds that regardless of approach to understanding justice, scholars generally attribute respect for human rights as cardinal to the notion of justice, and that human rights based International Legislation are but a comprehensive explanatory notes of the concept of justice in principle.

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## 1.0 Introduction

Justice, as a concept embedded by fairness and equal treatment of people regarding socio-economic and political rights and opportunities, must always be recognized as the key player in the art of man management for there to be an ideal society anywhere around the globe. This is not an over statement, reason being that in the formulation of law - which dictates rights, obligations, liabilities and, at times, even privileges, societies strive to occupy a floor on which they will not only be fair, but be seen to be so. This is why the composition of legislature and process of its major role (law making) symbolizes representation, whether the contrary is the case in observance. Because of its element of fairness, the concept of justice remains a universal affair as all societies and individuals dearly cherish such element, and most importantly, desire to be identified with it. In achieving that, respect for the rights of others becomes the only key instrument, hence providing social scheme for respect for human rights is the sole goal that the concept of justice stands for in effect.

Against this background, this study undertakes a thorough examination of concept of justice with a view to exploring how its meaning, nature and purpose reflect respect for and observance of human rights on one hand, and how the workings of international community attest to that on the other hand.

## 2.0 Perspectives on meaning, nature and habitation of justice<sup>1</sup>

At inception, a point must be made that dwelling on justice may consist in one of three senses - that is: justice in the oldest, narrow and proper senses.

- a. In oldest sense, the term means “righteousness, rectitude or moral excellence, or perfection”. This is a religious conception of moral virtue fundamentally required of a man to be harmonious with the spirit of God and attain self worthiness on the day of Judgment.<sup>2</sup>
- b. In the narrow conception of justice, it is associated with the compliance with the law. This means there exists justice when and only men follow the law as established in the society.

The idea of justice in this sense suffers two fundamental limitations. One, obedience to law

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<sup>1</sup>Scholarly perspectives on this topic are numerous and endless. In this work, accounts only of classical scholars across ancient Greece, medieval christianity, early modernity, recent modernity and contemporary eras are reckoned with.

<sup>2</sup>Asa G. Hilliard, ‘The Teachings of Ptahhotep, Egypt: Blackwood Press.

that does not carry with it element of fairness, as it is in many instances, is a manifestation of deficiency in one's social setting.<sup>3</sup> Two, an unjust law is, in conscience, not a law generally regarded.<sup>4</sup> Therefore, this sense of justice is ruled out here.

c. Coming to the proper sense, which fits the consideration of this study the most, justice is viewed as harmonious co-existence and mingling of different constituent parts within individual or a state, and accordingly, the study's consideration of justice is in line with this sense. On this note, scholarly perspectives on the term stretching as far back to Greece era - showing how respect for human rights is integral to the the concept - are examined as follows:

i. Plato<sup>5</sup> sees justice as consisting an arrangement within which rational order is established with different components, each performing supposed function without meddling in the functions of other parts. In his formulation of justice as such, he treats it as the basis of human society emphasizing that, one cardinal aspect of it is, in his words, "Justice is keeping what is properly one's own and doing one's own Job". Plato, appearing historic and universal in his general perspective on justice, says: justice is the requirement we laid down at the beginning as of universal application when we found our state, or else some form of it. We lay down; if you remember, and have often that in our state, one man was to do one job he was naturally most suited for.<sup>6</sup>

Plato's inclusion of principle of non interference in his formulation of concept of justice explains nothing but one's respect for the rights of others. And his consideration as such was embedded by the two characteristics of the Athenian city of his time, which, to him, led to its destruction. These two characteristics are meddlesomeness and amateurishness, hence Plato added that justice involves minding one's business and not

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<sup>3</sup>For instance, an attempt by the Nigerian National Assembly to criminalize and provide punishment for an act of payment of ransom money to bandit and boko-haram and kidnappers groups by Nigerians to for the freedom of their kidnapped relatives was generally viewed by common man, experts and elites as an unjust legislative effort for lack of fairness.

<sup>4</sup>Uwaezuoke Precious Obioha, 'The Nature of Justice' [2011] Journal of Social Sciences available at <https://www.researchgate.net/publication/267941412> retrieved on 04/09/2023.

<sup>5</sup> He was an ancient Greece scholar born during the Classical period in Athens. He lived between 427 - 347 B.C.E. He was the founder of the 'Academy', a school of philosophy where he taught philosophical doctrines that later became Platonism. He was influenced by Socrates, Pythagoras, Heraclitus and some more. He, in turn, influenced scholars like Aristotle, Immanuel Kant, John Locke, etc.

<sup>6</sup>Aristocles Plato, 'The Republic' [1974] Translated by Desmond, England: Penguin Books Ltd.

interfering with others'. The Plato's rationale here as argued in his work, 'The Republic', is that the state is itself perfect only when individuals as its components function for the good of whole as opposed to their own personal good (respect for human rights). This, he argues, is possible only when each individual (state component) fulfil his appropriate function, arguing that, that way the society is organized and fit for survival. Where, on the contrary, men are out of their naturally stationed duty posts - an act of meddling in the affairs of others - the whole society dissolves and disintegrates.

Unlike the philosophy which holds that the nature of justice being a product of convention is artificial and unnatural and, thus regarded as something outer an importation, and not conveyed to the soul,<sup>7</sup> Plato argues that justice does not rest on tradition or chance, or any external power. He views, in contrast, that justice resides in the human soul and, therefore, inwards a phenomenon in that regard, and it is simply a spirit to perform one's responsibility and avoid meddling in the duties of one's station. For this, the natural habitation of justice is in the mind of each citizen that performs the duties of his appointed station.<sup>8</sup>

Now, obviously, by this attribution, justice is as old as man, for it finds its habitation in his soul. It is to be noted, however, that the Plato's conception of justice, especially as it relates to principle of specialization and non interference, suffers some compelling criticisms.<sup>9</sup>

- ii. Of Greece era, also, is Aristotle.<sup>10</sup> To him, justice consists in a virtue that represents fairness and lawfulness, with fairness manifested in equitable distribution and avoidance of that which is inequitable and unfair. As elaborated in his work, 'The

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<sup>7</sup> This position was propounded by Cephalous, Thrasymachus and Glaucon.

<sup>8</sup> Ibid.

<sup>9</sup> It is often asked: 'are there no people with capability to function at different post stations with relative sophistication? and when they were so limited, would it be just for them and the larger society that stands to benefit from such functions?'

<sup>10</sup> Aristotle, like Plato, was an ancient Greece Philosopher and polymath. He was born 384 BC and died 322 BC. He was known to be of wide coverage scholarship in his writings which cut across variety of human life. Among his students were Immanuel Kant and Isaac Newton.

Nicomachean Ethics',<sup>11</sup> Aristotle explains that everything has a basic desire, and that of man lies in attaining a real happiness; a goal realizable only when no one transgresses his rights boundaries. Towards this, he builds his idea of conception of justice on individual life, thus his argument that justice is in respect to people, and that its delivery lies in the fair evaluation of the value of things offered as compared to that of the people receiving them. Like Plato, Aristotle believes that justice as it relates to individual is the concordance in human soul. And in respect to public at large, Aristotle argues that justice lies in correspondence and how it measures in both quality and satisfaction.

Therefore, Plato and Aristotle agree on one common ground about justice. That is, justice is about ethicalness of individual in real life implying that each individual within a group ought to observe his ethical (spirit of justice) responsibility towards other individuals of his group. Doing this is, in effect, recognizing and respecting human rights, which in turn is the whole mark of fairness.

- iii. By Augustine,<sup>12</sup> whose view represents Christian philosophy, justice consists in a virtue that derives men towards giving all their due. The question that arises here is: giving all their due to who? The simple answer is, giving due to other fellows, which is but an act of respecting human rights. As a Christian Philosopher, Augustine argues that just individual is he who lives by faith – this is why he refers to Habakkuk on two instances when he interfaces the equitable individual (*iustus*) to the justice (*iustitia*) due to God who leads dutiful and obedient city as manifested by his grace. Along this course, Augustine maintains that the just individual is who lives by faith, and as such, it is significant for just people to love one's neighbour and God. So, to Augustine, justice revolves around religious commitment, affection and reverence of God, as well

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<sup>11</sup> Translated by Commentaries and Glossary by Hippocrats G., Apostle, D., [1980] Redial Publishing, London, Book E, SP.

<sup>12</sup>This is Saint Augustine, known as Aurelius Augustinus of Hippo, also. He belongs to medieval christianity era. He was born November 13, 354 in Tagaste, Numidia, now Souk Ahras, Algeria, and died August 28, 430 in Hippo Regius, now Annaba, Algeria). Augustine was the bishop of Hippo from 396 to 430. He was a renowned theologian and prolific writer, as well as skilled preacher and rhetorician. He was among the greatest Latin Fathers of the Church and was recognized as a doctor of the church of Roman Catholicism. He had numerous written works, the major of which are 'Confessions' (c. 400) and The City of God (c. 413–426).

as being good to others (by respecting their rights), in that where God's due is missing, there exists no justice and privilege.<sup>13</sup>

- iv. For Aquinas,<sup>14</sup> justice is a rational arrangement which enables proportional distributions and reciprocity of transactions as a means separating conflicting injustices. This, Aquinas puts specifically in these words: 'a perpetual and constant will of giving everyone his due', which goal underlies human rights concept. To Aquinas, therefore, justice characterizes the moral virtue which is very necessary in human society since it is the quality that always aspires for good, be it a good in itself or individual's proximate good. By this conception of justice, Aquinas agrees with Aristotle in the examination of justice as two types - distributive and corrective justice - as theorized in his analysis of many social issues.<sup>15</sup> Importantly, this conception of justice gains recognition as one among classical views of justice in the institute of justitia.<sup>16</sup>
- v. In the next era, there comes Hobbes.<sup>17</sup> Hobbes's philosophy of justice rests majorly on his understanding that the concept (justice) is a product of ruler's coercive power based on the social contract approved by him as sovereign.<sup>18</sup> In his reasoning as such, Hobbes stretches genesis of justice to social contract between State's residents wherein each individual agrees to surrender his rights to the state, which arrangement is regarded to be one of the best theories of human enlightenment. Regarding the working of this arrangement, Hobbes contends that the sovereign's energy (coercive instrument) is what makes the natives comply with their said agreement. He therefore, opines that justice is never a possibility until power is institutionalized in the society. The result of

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<sup>13</sup>Joseph Nkang Ogar, Samuel Akpan Bassey, 'Historical Perspective on Social Justice' Omniscience: A Multi-disciplinary Journal, Volume 6, Issue 3 available at [www.stmjournals.com](http://www.stmjournals.com) accessed on 02/09/2023.

<sup>14</sup>Saint Thomas Aquinas was an Italian Dominican friar who lived between 1225 and 1274. He was from the County of Acqino in the Kingdom of Sicily. He was among the most famous philosophers and theologians in the Catholic Church tradition. Aquinas had worked to reconcile ancient Greek philosophers like Aristotle with Church doctrine. He held a firm belief that God's existence could best be proven through the use of logic and reason. To this day, the Church promotes St. Aquinas as the ultimate model for aspiring priests

<sup>15</sup>James Wetzel, 'Augustine and the Limits of Virtue' Cambridge University Press, 1992.

<sup>16</sup> Rearden Mylse, 'Law and Justice' [1987] in Myles Rearden (Ed.): Society and Rule of Law, Lagos: Hienemann Press, P. 112.

<sup>17</sup> Thomas Hobbes was an English philosopher born 15th April, 1588 at Westport, Wiltshire, England. He died 4th December, 1679 in Hardwick Hall, Derbyshire. Hobbes was a philosopher, historian and scientist as well. He was best known and regarded for his political philosophy articulated in his work, Leviathan (1651) in which he articulated his influential theory of social contract.

<sup>18</sup>Michael Mendelson, 'Saint Augustine' [2010] Stanford Encyclopedia of Philosophy.

this theorization accounts for Hobbes's contention that justice is not having to do with the sovereign's exemplary quality, uprightness or any other moral virtue, but having to do only with the social agreement voluntarily worked out by natives surrendering their rights to the sovereign on account of which justice rests in his (sovereign) disposition of the said contract.<sup>19</sup> According to Hobbes, under this arrangement, the sovereign is not subjected to any obligation, but all subjects are. Nevertheless, the sovereign is assigned a job to procure a social safety for his subjects. And that the degree of such safety covers not only life preservation, but such other social contentment man desires for himself through legitimate industry. Where this happens, Hobbes maintains that justice exists.

Hobbes's situating of and tracing justice to social contract between people whose desire for safety the sovereign is obligated to observe portrays respect for human rights as cardinal to his conception of justice, since people's contract is embedded by what they collectively accept to promote and safeguard in the best interest of each and every individual as a chain of the society. This is obvious considering that the essence of the social contract between members of human society under which individuals surrender their rights is to make a just society out of such scheme by institutionalizing state as custodian and administrator of such trust (surrendered rights). Therefore, under this arrangement justice is attained by returning this trust accordingly - respecting human rights.

- vi. For Hume,<sup>20</sup> justice is in serving public utility through protection of property (as broadly construed). In explaining his idea on justice as such, he invokes the concept of distributive justice, which is predicated on economic and other desires of man. He argues that distributive justice is necessary in serving public utility owing to the reality of resources scarcity bedeviling human needs and wants that measure disproportionately higher. So, there exists public utility in striking balance between the

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<sup>19</sup>Charles Roy Pigden, (Ed.) 'Hume on Motivation and Virtue,' New York: Palgrave - Macmillan, 2009.

<sup>20</sup> He is David Hume, a Scottish Enlightenment philosopher. He was also historian, essayist, librarian and an economist of refute. He was born 7th May 1711 and died 25th August, 1776 in Edinburg, United Kingdom. He is known today for his empiricism, naturalism and scepticism in his philosophies.

conflicting phenomena (limited resources and unlimited demands) to which he advocates for distributive justice as a solution. This is necessary because, as he maintains, open utility is the only source of justice. And as with Hobbes, Hume sees all qualities (good or bad), including that of justice, as evolving from our interests. It is on that basis alone that we endorse any ethicalness that meets our lovely sentiment and condemn any habit which gives us a feeling of displeasure.<sup>21</sup> By these features, Hume has straight forwardly located the root of his conception of justice in the fair distribution of societal resources. And, as right remains the key determinant of who, right from the natural scheme of human affairs, deserves what, when, why and how out of the limited societal resources, this conception of justice has a lot of dealings with human rights in meaning and objective.

- vii. Kant<sup>22</sup> conceives justice to be a situation in which there is a virtue which enables people to respect freedom, dignity and autonomy of others by not interfering with their actions which do not constitute violation of others rights. Arguably, Kant, in this conception follows the Ulpian<sup>23</sup> idea on justice: “to live honorably, to injure nobody, to give every person his due”. Along this line, Kant explains that each action is just in itself. That is, as expressed in the maxim, “the freedom of the will of each can co-exist together with the freedom of everyone according to the universal laws”.<sup>24</sup> To Kant, the value of every action lies in its motive, not in the thought process. And, in the same breath, the ethicalness of every activity comes from the dictate of reason behind it, not by its driving force.<sup>25</sup> By this idea, Kant means that in deciding the value of intention behind a given activity, it suffices to ascertain whether the associated motive can conform to the generally acceptable reason for all individuals within a common circle. Hence, an action is to be regarded as moral just only by it qualifying and falling under

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<sup>21</sup>Christopher W. Morris, 'The Social Contract Theorists: Critical Essays on Hobbes, Locke, and Rosseau' Rowman & Littlefield Publishers, 1999.

<sup>22</sup> Immanuel Kant was a German philosopher born 22nd April, 1724 and died 12th February, 1804 in Konigsberg. He influenced Karl Marx, Edmund Husserl and David Hilbert, among others. He is one of the nerves in Enlightenment philosophy.

<sup>23</sup> Ulpian is a celebrated legal jurist. He was a Roman jurist considered one of the the five jurists on whose authority decisions were to be based according to the 'Law of Citations of Valentinian III'.

<sup>24</sup> Rearden Myles, “Law and justice” [1987] in Myles Rearden (Ed.) 'Society and the Rule of Law' Lagos, Heinemann Press, P.112.

<sup>25</sup>Jeffrie G. Murphy, 'Hume and Kant on the Social Contract [1978] Philosophical Studies, 33 (1), P. 65.

a widespread acceptable law, which Kant describes as ‘categorical imperative’, implying that we guarantee that our actions do not deprive others of acting as far as a good law.<sup>26</sup> Suffices to say, he who goes by this, he is fair both to himself and others then.

viii. As for Mill<sup>27</sup>, justice is a collective term for the most essential social utilities considered imperative to promoting and protecting human liberty. Mill, as Utilitarian, emphasizes, in conception of justice, that respect for the right of the people is necessary as the basic utility that justice shall ensure. That being the whole mark of justice, its possibility is most guaranteed under the utilitarian contemplation.

Utilitarian conception of justice majorly rests on the contention that social justice is best designed when laws and all other social activities are set to and actually ensure the pleasure of entirety over that of the least; fair arrangement.<sup>28</sup>

Both Kant's and Mill's perspectives of justice are intrinsically human rights based. They both simply portray justice as nothing short of respecting human rights.

ix. In the contemporary era, Rawls<sup>29</sup> sees justice as meaning social virtue enabling attainment of highest degree in the enjoyment of equal liberty of basic rights and privileges among people of a society, tolerating socio-economic inequalities only on moral justification of equal opportunity that brings beneficial outcome to all.<sup>30</sup> In his theory of justice, Rawls states that justice is the fountain of societal structure and the subjects there are very crucial, being present from the beginning.<sup>31</sup> The hypothesis advanced by Rawls for justice resolves around adjusting the two crucial standards of justice embedded in his thesis on which justice rests. The first principle here is one

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<sup>26</sup> Graham Harrington Bird, ‘A Companion to Kant’ [2007] <http://doi.org/10.1002/9780470996287>.

<sup>27</sup> John Stuart Mill (1806-1873) was a well-known official in the East India Company and a recognized philosopher, politician and economist of 19th century Britain who advocated for the use of classical economic theory in political decision and legislation. He also subscribed to the moral theory of utilitarianism. His notable works include ‘principles of political economy’, ‘A system of Logic’ and ‘Utilitarianism’.

<sup>28</sup> F.R. Berger, ‘John Stuart Mill on Justice and Fairness’ [2015] *Canadian Journal of Philosophy*, P. 115 – 136. <http://doi.org/10.1080/00455091.1979.10717097>.

<sup>29</sup> See Chapter two for more information on John Rawls.

<sup>30</sup> ‘Western Theories of Justice’, *Internet Encyclopedia of Philosophy* available at [iep.utm.edu](http://iep.utm.edu) accessed on 20<sup>th</sup> August, 2023.

<sup>31</sup> John Rawls, ‘A Theory of Justice’ [1999] Harvard University Press.

founded on equal liberty. It dictates that each individual enjoys equal right to elaborate set of freedoms comparable with set of freedoms for all. The second principle, which is 'difference principle', is a proposition that socio-economic inequalities must be tolerable only for the goal that they are (a) to the slightest group (b) attached to persons and positions of work places under a balanced opportunity of competition.<sup>32</sup> Other than right to life, right to personal liberty can be argued as being the top of human rights. The Rawls's conception of justice is clearly rooted in the human rights elements. This is so because, the whole conception is concerned with social arrangement that guarantees human liberty. And as complementary to that, Rawls then stretches the conception to ensuring freedom from discrimination - another fundamental human rights - without which there exists no justice in any human society.

- x. Nozick<sup>33</sup> sees justice as having to do with individuals' rights, especially their rights to property and self determination. On this course, he advocates that to have justice, individuals should be permitted opportunity of free choice in deciding what they do with what they have. This is because, Nozick argues, every individual is a distinct element of the society whose self-sufficiency must be regarded as individuals are closures that cannot be utilized in ways they do not conscienciosly submit to. This is even when greater utility is expected out of such interference. To Nozick, to remove or take property from one for its redistribution to others is an outright abuse of the right of the owner, hence injustice. Nozick exemplifies this situation with tax collection in the name of redistribution.<sup>34</sup> By this, Nozick follows Kant, Mill and Rawls in understanding justice from human rights based perspective as he sees as injustice any act of interference with one's right of ownership even for the collective good of the community.

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<sup>32</sup> Rawls's Theory of Justice has been extensively discussed in Chapter two, and it is adopted as the theoretical framework of this study.

<sup>33</sup> Robert Nozick was born 16th November, 1938 in New York, New York, United States and died 23rd January, 2002 in Cambridge, Massachusetts, United States. He was an American philosopher who held Joseph Pellegrino University professorship at Harvard University. He was the president of American Philosophical Association. He was influenced by John Rawls, Immanuel Kant, among others. He is best known today for being an unflinching defender of libertarianism as in his famous work 'Anarchy, State and Utopia'.

<sup>34</sup> Emanuel E. Eyo, Joseph Nkang Ogar, 'The Socratic 'Man Know Thyself' and the Problem of Personal Identity' [2014] Sopsis: An African Journal of philosophy, 15 (1), P. 69.

There can be no end to ideas on the concept of justice. But, importantly, regardless of variance in perspectives on meaning, nature and origin of justice, justice as agreed by all scholars, is in fairness, righteousness, integrity, honesty and impartiality in individual actions relating to oneself and another as condensed in basic human liberty. And that since justice here relates to human affairs, and that such desire for virtues has been an inbuilt human feature, the origin of justice remains as old as man. Understandable, also, from these various perspectives is that, justice, by nature, is integral to humankind, it is pervasive (it is needed everywhere) and is the fountain on which law rests, in that the former was born out of the man's desire to live in a just environment.

### **3.0 International Human Rights Instruments as Bearer of Justice**

As a pervasive concept, justice is the umbrella under which nations unite in furtherance of its course in matters of general administration of human society at both national and international levels. Of the natural consequences of this togetherness there is the desire to have legal and institutional framework embodying codified version of natural rights, especially man's liberty and equality of treatment, which underlie the idea and purpose of justice. Consequently, this interactions brought about many organisations established to carry into effect the intendments of the said laws. And achieving fairness in all manner of human interactions through recognition and protection of man's natural rights is the cardinal objective of all justice - based international laws and institutions. Few of these instruments and organisations are used to demonstrate their fairness - driven objectives below:<sup>35</sup>

#### **3.1 Universal Declaration on Human Rights, 1948<sup>36</sup>**

This is a human rights based international Instrument, which though a soft law, is regarded in high esteem by all actors of international community.<sup>37</sup>

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<sup>35</sup> International universal instruments representing all nations are considered, while African regional instruments are considered to avoid repetition.

<sup>36</sup> This instrument came into being in 1948.

<sup>37</sup> Bryan H. Druzin, "Why Does Soft Law Have Any Power Anyway? [2016] Asian Journal of International Law, 1.

This Instrument represents the common standard of milestone achievement for all nations and their respective peoples being the first in history to set out fundamental rights to be protected universally. It eventually paved way for the emergence and adoption of more than 70 other global and regional human rights instruments tracing their foundations to it in their preambles.<sup>38</sup>

The commitment of this Instrument to the course of justice can be inferred from its preamble wherein it states in part as follows:

- It recognises that inherent dignity as well as equal and inalienable rights of all persons form the fountain of justice, freedom and peace in the world.
- It recognizes that neglect and disregard for human rights is the cause for barbarous acts that resulted degeneration in the conscience of man and advent of world where human being shall live in freedom.
- It acknowledges that protection of human rights through rule of law is the only measure to prevent man from probable holding onto rebellion as last resort.
- It makes clear that the peoples of the United Nations as a community reaffirm faith in fundamental human rights, the dignity of human person and equality of rights between men and women, as well as, determined to uphold social development and better standard of life through wider freedom.
- It refers to the member states' resolve to cooperate with the United Nations in promoting universal respect for human rights and freedoms and their observance.

### **3.2 Major Declarations of the UDHR**

The Instrument, in particular, makes clear declarations of basic human rights, which are the true manifestation of the whole concept of justice in different articles. The major declarations are:

1. It declares all human beings as being born free with equal dignity and rights with endowment in reason and conscience. And, therefore, human beings should relate with one another in the spirit of brotherhood.<sup>39</sup>

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<sup>38</sup>United Nations'available at un.org accessed 23/09/2023.

<sup>39</sup> Article 1.

2. It declares that every person is entitled to all the rights contained in the declaration without any form of discrimination whatsoever.<sup>40</sup>
3. It declares that every person has a right to life, personal liberty and personal security.<sup>41</sup>
4. It declares that no person shall be tortured, subjected to any cruel, in human or degrading treatment or punishment.<sup>42</sup>
5. It declares that every person shall be recognised as a person before the law anywhere.<sup>43</sup>
6. It declares that all persons are equal before the law and are entitled to enjoy equal protection of law, which extends to equal protection against any form of discrimination.<sup>44</sup>
7. It declares that every person has a right to effective judicial remedy by a competent court or tribunal for any act contravening his/her rights as guaranteed by the constitution or any law<sup>45</sup>
8. It declares that no person shall be arbitrarily arrested, detained or compelled to exile.<sup>46</sup>
9. It declares that every person has a right to fair public hearing by independent and impartial tribunal or court in the course of determining of any rights and obligations relating to him or any criminal charge brought against him.<sup>47</sup>
10. It declares that everyone shall only be subject to limitations determined by law solely for respecting others rights and freedoms or on the ground of public interest.
11. It declares that limitations to the rights contained in this declaration shall only be on the determination of law solely for recognizing and respecting the rights and freedoms of others or for meeting just conditions of morally, public order or general welfare in a democratic society.<sup>48</sup>

These sets of fundamental rights are what have been shown by the scholarly perspectives above to be all that the concept of justice entails and always seeks to attain.

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<sup>40</sup> Article 2.

<sup>41</sup> Article 3.

<sup>42</sup> Article 5.

<sup>43</sup> Article 6.

<sup>44</sup> Article 7

<sup>45</sup> Article 8

<sup>46</sup> Article 9.

<sup>47</sup> Article 10

<sup>48</sup> Article 29 (2)

For instance, Nozick sees justice as having to do with individuals' rights, especially their rights to property and self determination. He advocates that to have justice, individuals should be permitted opportunity of free choice in deciding what they do with what they have.

Rawls sees justice as meaning social virtue enabling attainment of highest degree in the enjoyment of equal liberty of basic rights and privileges among people of a society, tolerating socio-economic inequalities only on some strict conditions that jealousy guard and promote the best interest of least advantaged groups.

Aquinas sees justice a rational arrangement which enables proportional distributions and reciprocity of transactions a same as separating conflicting in justices. Aquinas puts it succinctly thus: 'a perpetual and constant will of giving everybody his due.

Kant conceives justice to be a situation in which there is a virtue which enables people to respect freedom, dignity and autonomy of others by not interfering with their actions which do not constitute violation of others' rights.

Mill perceives justice to be a collective term for the most essential social utilities considered imperative to promoting and protecting human liberty. Mill emphasizes that respect for the right of the people is necessary as the basic utility that justice seeks to ensure.

Apart from these principles of UDHR, respect for human rights (considered by the scholars as the fountain of justice) has always been what international community at global level continues to uphold through other major conventions that focus on different aspects of human life or classes of persons. This effort is represented in the following conventions:

- i. International Convention on the Elimination of all Forms of Racial Discrimination.<sup>49</sup>
- ii. International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>50</sup>
- iii. International Covenant on Civil and Political Rights.<sup>51</sup>
- iv. Convention on the Elimination of all Forms of Discrimination Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>52</sup>

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<sup>49</sup> 21<sup>st</sup> Dec., 1965

<sup>50</sup> 16<sup>th</sup> Dec., 1966.

<sup>51</sup> 16<sup>th</sup> Dec., 1966.

<sup>52</sup> 18<sup>th</sup> Dec., 1979.

- v. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>53</sup>
- vi. Convention on the Rights of the Child<sup>54</sup>
- vii. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>55</sup>
- viii. Convention on the Rights of Persons with Disabilities.<sup>56</sup>
- ix. International Convention on the Rights of Persons with disabilities.<sup>57</sup>

As with UDHR, these international Instruments seek to, and actually, promote justice through recognition and protection of certain rights that are inherent in human person, and in so doing, their purposes and intendments as well as their declarations are substantially the same with that of UDHR. However, they differ only with the UDHR in that they are subjects or persons specific. And, in general, they retain the major declarations of human rights contained in UDHR while qualifying or expanding them to cover their specific subject or class of persons. What is important is their community of purpose - providing legal mechanisms that explain justice more, and seek to ensure that it exists accordingly in all human societies.

### **3.3 Major international Regional Treaties on Human Rights and Justice**

Generally, at international regional community level, European Convention on Human Rights, American Convention on Human Rights and African Charter on Human and Peoples' Rights and there likes are important reflection of UDHR with each concerned with the promotion of justice through human rights declarations at its regional sphere.

African charter on Human and Peoples' Rights is akin to its other regional counter parts, hence considered here.

ACHPR, also, known as 'Bunjul Charter' is an international regional human rights instrument that seeks to uphold the principles of justice through promoting and protecting human rights and basic

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<sup>53</sup> 10<sup>th</sup> Dec., 1984.

<sup>54</sup> 20<sup>th</sup> Nov., 1989.

<sup>55</sup> 18<sup>th</sup> Dec.,1990

<sup>56</sup> 13<sup>th</sup> Dec., 2006

<sup>57</sup> 13<sup>th</sup> Dec., 2006

freedoms within the continent of Africa. It emerged under the auspices of Organization of African Unity, now African Union.<sup>58</sup>

As at 2019, no fewer than 53 African States, including Nigeria, have ratified this charter.<sup>59</sup>

The charter contains preambles, 3 major parts, 4 chapters and 63 Articles through which it creates human rights system in African region.<sup>60</sup>

Other than its notable features regarding its norms, the charter shares many other major characteristics with its regional counter parts.<sup>61</sup>

The human rights provisions of the charter are substantially similar to those universally accepted under UDHR regarding civil and political rights. These rights are right to freedom from discrimination,<sup>62</sup> right to equal treatment,<sup>63</sup> right to life, personal integrity and dignity,<sup>64</sup> right to freedom from slavery, cruel, inhuman and degrading treatments and punishment,<sup>65</sup> right to procedural fairness regarding arrest and detention,<sup>66</sup> right to fair trial,<sup>67</sup> right to freedom of religion,<sup>68</sup> rights to freedom of association and assembly,<sup>69</sup> right to freedom of movement<sup>70</sup> and the right to property.<sup>71</sup>

Through these provisions and many others that border on socio-economic rights, the charter promotes justice in African region following the steps of UDHR. By following the steps of UDHR,

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<sup>58</sup> The organization of African unity at its Assembly of Heads of States and Governments in 1979 considered the desire to create an experts committee to draft for the African region a wide-range human rights instrument similar to ones existing in Europe and America. Consequently, a resolution to that effect was adopted and the committee, having duly formed, produced the draft, which was unanimously approved at its 18 Assembly held in Nairobi, Kenya in June, 1981. Following this and other subsequent protocols, the ACHPR came into being on 21<sup>st</sup> October, 1986.

<sup>59</sup> ‘Ambf CMS’, Archived from the original on 25/02/2021

<sup>60</sup> Organization of African Unity, 1981, Archived (PDF) from the original, retrieved on 15<sup>th</sup> Sep., 2023.

<sup>61</sup> Rhona K.M. Smith, Christien van den Anker, ‘The Essentials of Human Rights’ Hodder Arnold, 2005.

<sup>62</sup> Article 2 and 18

<sup>63</sup> Article 3

<sup>64</sup> Articles 4 and 5

<sup>65</sup> Article (5)

<sup>66</sup> Article 6

<sup>67</sup> Article 7 and 25

<sup>68</sup> Article 8

<sup>69</sup> Articles 10 and 11

<sup>70</sup> Article 12

<sup>71</sup> Article 14.

all its provisions are, in comparison to the scholarly perspectives of justice, same as that of UDHR examined under item

#### **4.0 Major Intergovernmental Organizations Concerned with Justice**

##### **A. Universal Intergovernmental Organizations**

For the justice and human rights related universal treaties, the following major intergovernmental organizations are considered.:

###### **i. United Nations (UN)**

UN is the largest international organization concerned with the preservation of international peace and security as its cadialn functions.<sup>72</sup> The UN came into being on the 24<sup>th</sup> October, 1945 as second to League of Nations in terms of worldwide membership and scope in 20<sup>th</sup> century with regional offices in Geneva, Nairobi and Vienna.<sup>73</sup> UN has many functions categorized into 4 main, which include security and peace, development, rule of law and human rights. By its charter, the UN aims:

to save succeeding generations from the courage of war...

to reaffirm faith in the fundamental human rights...

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom.

Other objectives of the UN target developing a relationship of friendliness among states on the basis of respect for the principles of equal rights of the peoples and their self determination.<sup>74</sup>

###### **ii. United Nations Human Rights Council**

This is a UN body established on 15<sup>th</sup> March, 2006 as a subsidiary intergovernmental organ of the UN which is headquartered at Geneva, Switzerland.<sup>75</sup>

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<sup>72</sup> See Chapter 6 of the Charter.

<sup>73</sup> Nigeria joined the organization in 1960.

<sup>74</sup> Jacques, F., Cecelia M.L., Karen, M., 'United Nations' [2023] Encyclopedia Britanica available at Nations. accessed 18/9/2023.

<sup>75</sup>OHCHR/HRC Sessions' [www.ohchr.org](http://www.ohchr.org).archived from the original retrieved 18/9/2023.

The major function of the council is investigation into all allegations of breaches of human rights across UN member states, as well as addressing specific human rights issues like rights to freedom of association and assembly, freedom of expression, freedom of religion, woman's rights, rights of social and ethnic minorities, etc.<sup>76</sup>

iii. UN office of the High Commissioner for Human Rights (OHCHR)

OHCHR is another body of the United Nations concerned with upholding justice among UN member states whose mandate is to promote, protect, and maximize enjoyment, by all people, all human rights provided by the charter. The OHCHR's function extends to prevention of violations of human rights, ensuring the attaining of respect for these rights, coordination of human rights related activities of member states, as well as strengthening international cooperation towards protecting human rights. It equally serves in strengthening human rights system of the UN.<sup>77</sup>

The works of the OHCHR are geared towards six thematic areas of which promoting the cardinal human rights principle of non-discrimination among people (equal treatment) is one, which, itself, reflects the meaning assigned to the concept of justice by many scholars considered in this study, such as Rawls, Plato, Kant, Mill, Nozick, etc. Equally, the functions of the body represents the concern of justice as a concept.<sup>78</sup>

iv. International Coordinating Committee for National Human Rights Institutions (ICC).

This body was established in 1993 as coordinating intergovernmental organization for National Human Rights Institutions. The function of the ICC is essentially to promote and strengthen National Human Rights Institutions to operate in line with 'Paris Principles'.<sup>79</sup> It, equally, has a mandate to establish universal leadership system in the area of human rights promotion and protection. In its universal structure, the ICC's Bureau consists of one

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<sup>76</sup> Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association' archived from the Original retrieved 18/9/2023; Human Rights Watch [2011] 'UN Rights Body Acts Decisively on Iran, Cote D'voire retrieved 18/09/2023.

<sup>77</sup> See UN General Assembly Resolution 48/141

<sup>78</sup> Inventory of United Nations Activities to End Violence against Women (Availbale at in-inventory.women.org. retrieved 19/09/2023).

<sup>79</sup> It covers all aspects aimed at ensuring giving full effect to human rights. By article 3 (g), in particular, it requires that: to publicize human rights and efforts to combat all forms of discrimination, in particular, racial discrimination, by increasing public awareness, especially through information and education and by making use at all press organs.

National Human Rights Institution from each of the four primary regions of the world: Africa, Americas, Asia and Europe. The committee carries out its function of facilitating and supporting the engagements of all National Human Rights Institutions with the UN system through annual meetings and biennial conferences.<sup>80</sup>

## **B. African Regional Intergovernmental Organizations**

### **i. African Union (AU)**

AU is a continental international organisation made up of all the 55 countries of the African continent. It was established in the year 2002 to succeed the defunct Organization of African Unity (OAU) that existed between 1963 – and 1999. Of the aims of the AU, it is to promote security, peace and stability in the African continent; democratic governance, principles and popular participation, and importantly, for the promotion and protection of all human rights outlined in the African Charter of Human and Peoples' Rights, as well as other instruments of human rights.<sup>81</sup> The AU carries out its functions through different organs. And, as far its function relating to ensuring justice through human rights, the following major organs are instrumental.<sup>82</sup>

### **ii. African Commission on Human and Peoples' Rights (ACHPR).**

The ACHPR was established in November, 1987 in Addis Ababa, Ethiopia under African Charter on Human and Peoples' Rights. The functions of the Commission, as provided by the Charter, are four-fold, namely, promotion of human and people's rights, protection of human and people's rights, interpretation of the provisions of the Charter and any special tasks as may be assigned to it by the Assembly. The charter provides:

The commission carries out sensitization, public mobilization and information dissemination through seminars, symposia, conferences and missions.

The commission ensures protection of human and peoples' rights through its communication procedure, friendly settlement of disputes, state reporting (including consideration of NGOs' shadow reports), urgent appeals and other activities of special rapporteurs and working groups and missions.

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<sup>80</sup> International Justice Resource Center. Ijrcenter.org. Retrieved 19/09/2023.

<sup>81</sup> See Constitutive Act of the African Union; Protocol on Amendments to the Constitutive Act of the African Union.

<sup>82</sup> 'About the African Union' available at au.int. retrieved 19/09/2023.

The commission is mandated to interpret the provisions of the charter upon a request by a state party, organs of the AU or individual.<sup>83</sup>

iii. African Court of Justice and Human Rights

This is a continental court established by the collective efforts of African states for the purpose of ensuring the protection of human and peoples' rights in African region. The Court's function is complimentary to that of African Commission on Human and People's Rights. The Court was established by Article 1 of the protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on human and peoples' rights. This protocol was adopted by the state members of the union (then organization of African Unity (OAU)) in June, 1998, in Ouagdadougou, Burkina Faso. However, the protocol came into force on 25<sup>th</sup> January, 2004 which received ratification of 34 member states.<sup>84</sup> The Court, as established, is clothed with jurisdiction to receive and entertain cases bordering on human and peoples' rights directly filed by NGOs and individuals.<sup>85</sup>

Since its establishment, the court carries out its functions accordingly as it heard and determined many cases.<sup>86</sup>

A look at the aim and functions of these 3 African Intergovernmental Organizations will reveal one major objective. That is, they all seek to ensure social justice within African continent. And social justice itself lacks meaning if divorced from human rights. This is because, the term social justice represents an ideal social arrangement designed in pursuit of all esteeming qualities and removal of all evil associated qualities so as to create social relation in which all people enjoy equal treatments in human rights, and in the distribution of societal resources. Where there exists a functional social justice, therefore, people shall neither suffer oppression nor have their welfare and prosperity compromised or meddled with on the ground of social class, political affiliation, financial condition, religion, sex, race or any other difference

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<sup>83</sup> Article 45 of African Charter on Human and Peoples' Rights.

<sup>84</sup> Nigeria ratified the Protocol on 20th May, 2004 and signed same on the 9th June, 2004.

<sup>85</sup> See article 34 (6) of the Protocol

<sup>86</sup> Some latest decisions of the court are in application 004/2020 – Houngue Eric Noudehovenov V. Republic of Benin, on Interpretation, Judgment 05/09/2023; Application 005/2019 – Issiak Keita and Others V. Republic of Mali, on Merits and Reparations, judgment – 05/09/2023; Application 011/2016 – Chacha Wambura V. United Republic of Tanzania on merits and Reparations, Judgment 05/09/2023.

whatsoever. In the whole, social justice is a principle of social interaction similar to that of equity.<sup>87</sup>

In line with this, the functions of these bodies of protecting and promoting human rights account for the true meaning of justice and all that it stands for in action.

## **5.0 Findings**

Based on the examination of the scholarly perspectives of justice vis-a-vis the objectives of some major universal and regional human rights based treaties, as well as the functions of justice related international bodies, the following findings are made:

1. Regardless of approach to understanding justice, scholars generally attribute respect for human rights as cardinal to the notion of justice.
2. Human rights based International Legislation are but a comprehensive explanatory notes of the concept of justice in principle.

## **6.0 Conclusion**

This paper, as the title implies, is an exploration of the meaning of concept of justice, thorough examination of the scholarly perspectives spanning various historical eras, whereby justice is categorized in diverse contextual scenarios, emphasizing its universality as evidenced in international community interactions. Furthermore, it delves into the intricate interplay between justice and human rights, as well as its tangible manifestations within some selected International Legislation, as well as the workings of some human rights based International Organizations.

Consequently, the paper succeeds in pointing out wherein lies strong tie between scholarly definitions of justice and the principles encapsulated in International human rights based Instruments, and the objectives of some International human rights based International Organizations.

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<sup>87</sup>Linda J. Skitka, G. Scott Morgan, 'The Social and Political Implications of Moral Conviction' [2014] Political Psychology 35 (1), P. 95.