



CITIZENSHIP AND CITIZENS RIGHTS IN NIGERIA*

1.1 INTRODUCTION

Plateau State is the home to various or different ethnic and religious communities in Nigeria, who have lived peacefully together. Between 2001 and 2004 it witnessed violent ethnic and religious conflict that resulted in the mass killing of people and destruction of property by certain ethnic and religious groups against one another. The crisis was between one group that called itself the indigene of Plateau State against those they called settlers who came and settled in Plateau State from other states of the Nigerian federation. According to the group who claim to be indigenes of Plateau State, the other group they called the settlers have no any right to hold political office or engage in economic activities they consider inimical to their vested interest. The indigene group took arms to kill and destroy the lives and properties of the settler group so that the state of Plateau should be left to them alone. The danger posed by this horrific incidence and its attendant consequences made the Federal Government to declare State of Emergency in Plateau State.

With the return of Nigeria to democratic rule in 1999, the country has been engulfed with ethno-religious conflicts in some states of the federation like Kaduna, Lagos, Taraba, Benue, Plateau, Kano etc. The 1999 constitution is the Grundnorm of the Nigerian federation. Curiously, nowhere has it used the term settler or indigene of any particular state of the federation. It accords equal opportunities to all Nigerians based on citizenship. Therefore the issue of settler or indigene of a particular state in this context is a matter not known to the Nigerian constitution and by the doctrine of constitutional supremacy even if such law exist in the federal, state or local government legislation, it shall be null and void to the extent of its inconsistency to the 1999 constitution.

Universal concepts of citizenship and citizen rights are what have been used to provide the landmark solution to the perennial problem of ethno-religious societies such as Nigeria. Clashes of this nature are not peculiar to the Nigerian society, because the problem of claim to language rights, regional autonomy, political representation, education curriculum, land claims, immigration and naturalization policy, even national symbols, such as the choice of national anthem or public holidays are global problems facing multi-ethnic and religious democracies today.¹



Citizenship on the basis of equal rights for all people has become the universal approach in an attempt to solve the problem of minorities and majorities rights in or almost all the multi ethnic and multi-religious countries the world-over, Nigeria inclusive.

Nigerian Constitutions, past and present have retained the chapters on citizenship and citizens rights (most especially the fundamental rights provisions). In this article, attempt will be made to look into and examine the important provisions of citizenship and citizens rights with a view to projecting them as the foundation for solving the frequent clashes among different ethnic and religious groups in Nigeria.

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2.2 WHO IS A NIGERIAN CITIZEN?

According to Chambers English Dictionary a citizen is an inhabitant of a city: a member of a state: a townsman: a freeman: a civilian. In Herriott v. City Seattle,¹ Citizens are defined as members of a political community who, in their associated capacity, have established or submitted themselves to the domination of a government for the promotion of their general welfare and the protection of their individual as well as collective rights. Citizenship is the status of being a citizen² A Nigerian citizen is one who, under the Constitution of Nigeria is a member of the political community, owing allegiance and being entitled to the enjoyment of full civil rights. A person can acquire Nigerian citizenship by birth, registration or naturalization. Each type of this citizenship will be discussed hereunder seriatim

2.2.1 Citizenship by birth:

There are three categories of persons in this respect. (i) A citizen by birth is a person who is born in Nigeria before the date of Nigerian independence,³ that is, 1st day of October 1960 either of whose parents or any of whose grand parents belongs or belonged to a community indigenous to Nigeria.”

A person can therefore claim Nigerian citizenship if his mother or father or grandmother or grandfather belongs to a community indigenous to Nigeria. In the celebrated case of Shugaba v. Minister of Internal Affairs,⁴ the Supreme Court held that the Applicant could claim Nigerian citizenship through his mother whose citizenship as a Kanuri, which is “a community indigenous to Nigeria” was established by evidence, despite the fact that it was also established that his father had migrated to Nigeria from a neighbouring country, Chad.



It still remains a matter of conjuncture as to the actual meaning of the phrase "a community indigenous to Nigeria" because the constitution has not defined it nor has the courts probably done so. For example there are communities in Nigeria who share linguistic, cultural, social and economic ties and activities with those in the neighboring countries, like the Fulanis in Nigeria and Cameroon, or Yoruba's in Benin Republic etc. How easy could it be to distinguish the Fulanis living in Adamawa State who otherwise belonged to the Fulani community in Garwa, Cameroon? The same applies to the Yoruba's from Cotonou in Benin Republic, living say in Ota, Ogun State. In the Yoruba's community in Garwa, Cameroon, it is submitted that the operative words in section 25 of the constitution is the phrase "belong to" which section 318(1) of the constitution defines as "with reference to person in a state refers to a person with or whose parents or any of whose grand parents was a member of a community indigenous to that state." Identification of the indigenous community in this case may be done with reference to the state or local governments of such parents or grand parents.

- (ii) A person who is born in Nigeria after the date of independence either of whose parents or any of whose grand parents is a citizen of Nigeria.
- (iii) A person born outside Nigeria either of whose parent is a citizen of Nigeria.

2.2.2 Citizenship by Registration

A woman who is or has been married to a Nigerian citizen, or a person of full age and capacity born outside Nigeria any of whose parent is a citizen of Nigeria may be registered as a citizen of Nigeria if the president is satisfied with the following:

- (a) The applicant is a person of good character
- (b) He has expressly indicated his desire to be domiciled in Nigeria
- (c) He has taken the oath of allegiance⁶

2.2.3 Citizenship by Naturalization

The president could issue a certificate of naturalization if he is satisfied with the following:

- (a) Being a person of full age, good character, and has shown clear intention to be domiciled in the country.
- (b) The Governor of a state where he resides or intends to reside certifies that he is acceptable to the local community and has assimilated their way of life.



- (c) He is a person who has made or is capable of making useful contribution to the advancement, progress and well being of Nigeria
- (d) He has taken the Oath of Allegiance
- (e) At the time of his application he has resided in Nigeria for a continuous period of fifteen years or resided in Nigeria continuously for a period of twelve month and thereafter had in the last twenty years resided in Nigeria for a period amounting in the aggregate not less than fifteen years.

No any person who is a citizen of Nigeria by birth could be stripped off of his citizenship, by the government or any other person or group of person. However, under certain circumstances, persons whose citizenships are by registration or naturalization could have their citizenship stripped off by the president.

At any rate, a citizen of Nigeria is accorded equal rights irrespective of his place of origin, tribe or sex or the circumstance of his birth, religion or political ideology throughout Federal Republic of Nigeria. No any Nigerian citizen is to be put at any disadvantage simply because he belongs to another community different from the one he resides in. The question then is what are those rights conferred to every Nigerian citizen irrespective of his tribal, religious or other differences? Multiple citizens' rights can be found in several provisions of the 1999 constitution, the most important ones for the purpose of this article being the fundamental rights to which attention will now be focused on.

3.3 FUNDAMENTAL RIGHTS AND CITIZENSHIP

The collective term Fundamental Rights is very difficult to define. However, if one must define it, then it will be better to begin with the definition of right. Right has been generally defined as power of free action. That means the power, which an individual has to freely exercise his volition. These rights are exercised by Human beings. That explains why it is defined as "the Primal Rights pertaining to men are enjoyed by Human beings purely as such, being grounded in personality, and existing antecedently to their recognition by positive law."⁷ They are the inherent or inalienable rights of men (and of course women) which they cannot be deprived or divested of, therefore are inviolable. Inviolable in the sense that no law or administrative order or action can abridge or take them away.



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Furthermore these rights become fundamental because they are elevated and have been given constitutional status: "Fundamental Rights," says Parrott are such rights when they are expressed in, or guaranteed by laws which are basic or pre-eminent laws of the legal system in question," and he added "for example Rights which are specified in a written constitution, or in judgment of a superior court interpreting the constitution, or in enactment of a legislature designed to render the constitution more specific in a certain area."⁸

In Nigeria the fundamental rights of the citizens are contained in chapter four of the 1999 constitution. For the purpose of expediency the rights will be divided into two, namely the rights accorded to all persons (irrespective of whether they are citizens of Nigeria or not) and those rights that are to be enjoyed particularly by citizens of Nigeria.

The right to life, dignity of human person, personal liberty, fair hearing, freedom of thought, conscience and religion, freedom of expression and the press, peaceful assembly and association are all rights guaranteed to every human being living in the territory called Nigeria be it North West, North East, Central Nigeria (middle belt), south west, south south or south east. To deprive a person of his life or dignity of his person etc as mentioned above is to go contrary to the constitutional rights of such individual. It goes without saying that the recent communal clashes in the name of religion or ethnicity or under any guise is contrary to the Nigerian constitution and such actions are clearly unlawful.

As to the other fundamental Rights which are guaranteed to every citizen of Nigeria irrespective of where he is originally rooted, the constitution has preserved them, such as Right to Private and Family life, Right to Freedom from discrimination, Right to Freedom of movement and Right to acquire and own immovable property anywhere in Nigeria.

The latter group of rights will be examined in some detail because as the recent communal clashes indicates, several people were attacked, maimed or killed and property worth millions of Nigeria have been lost, with ethnic or regional or religious differences cited as justification for such barbaric action.⁹ Is such act of barbarism supported by any law in Nigeria? What has the Constitution, the basic law of the country says?



protected. To set ablaze or destroy the home of any Nigerian citizen or to temper with his letters, telephone or telegraphic communication is prohibited by the constitution. Any unreasonable intrusion upon a person's seclusion or solitude or into his private affairs is an infringement of his right of privacy.¹⁰

3.3.2 Right to Freedom of Movement

Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exit there-from.

Under this freedom any Nigerian citizen can freely move in any part of the country and can freely choose to live or settle in any part of the territory called Nigeria. Similarly, he cannot be deported. In the case of Shugaba v. the Federal Minister of Internal Affairs and others, (supra) Shugaba was deported to Chard by the Federal Government of Nigeria on the ground that he was not a citizen of Nigeria. The court held that Shugaba was a citizen of Nigeria and that the deportation order had constituted inter alia a violation of his fundamental right to move freely.

In Agbakoba v. SSS,¹¹ the court held that citizenship includes the right to move around, reside any where, exist and enter the political community to which a citizen belongs.

Section 42 of the 1999 constitution provides that, a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person-

- (a) be subjected either expressly or in the practical application of any law in force in Nigeria or any executive or administrative action of the government, to disabilities, or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject; or
- (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic group, places of origin, sex, religious or political opinions



(c) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

By virtue of this section, Nigerian government(s) as personified by the President, Governor, Chairman of Local Governments are prohibited either by him or through any executive action to place any citizen into any restriction or disability or accord such person any privilege or advantage on the ground of such person's community, ethnic group, place of origin, sex, religious or political opinion. In other words discriminatory treatment either by conferring advantage or disability on the ground of ethnicity, religion, sex or political opinion is prohibited by the constitution.

An erudite constitutional law scholar has explained the scope of S. 42 of the constitution, where he said,

Certainly, a democratic constitution founded on the worth of the individual as an autonomous legal entity should not tolerate class discrimination, whereby people are treated differently by the state in the distribution of restrictions or advantages, not because of any real and substantial differences between them, but simply because they belong to different social classes, whether the classification is based on sex, tribe, ethnicity, religion or political opinion, fairness or justice demands that people who are similarly circumstanced should be treated equally by the state.¹¹

Furthermore, this position is reinforced by subsection (2) of S.42 to include a person's circumstance of his birth. No person can claim that he or she is instrumental to being born in any soil or from any community or ethnic group, these are purely circumstantial, therefore, according to the constitution, it shall not be a ground for discriminatory practices either to confer advantage or disability.

All citizens of Nigeria from whatever part of the country or ethnic group or religious or political persuasion/affiliation are suppose to be equal and treated equally by the states, local and federal governments and indeed between citizens inter-se.



3.3.3 Right to Acquire and own Immovable Property Anywhere in Nigeria

Each and every citizen of Nigeria is empowered by the constitution to as of right to “acquire and own immovable property in Nigeria.” This being so, nothing in law shall serve as an impediment for any citizen of Nigeria to acquire; a plot of land, a farm land, a house or any immovable assets in any part of the country. To posit that acquiring of landed immovable property by settlers is unacceptable to some communities is a fundamental breach of the constitution and indeed the fundamental Rights of such settlers.

To sum up, from the foregoing, the constitution treats and places all Nigerians at equal footing with no one above the other no anyone is below the other. As fundamental right to every citizen, he or she should not be subjected to any disability or placed in any advantage that is not otherwise applicable to all persons within such community.

Every citizen has a right to private and family life; right to freedom of movement throughout the territory of Nigeria and to settle anywhere; or any place of his choice; Right to freedom from discrimination on ground of sex, religion or political opinion, ethnic group etc; Right to acquire and own immovable property anywhere in Nigeria is guaranteed and protected by the constitution. It therefore becomes obligatory on the local, state, and federal governments and every person in Nigeria to preserve, observe and enforce these constitutional provisions for the peace, stability and progress of Nigeria. Section 1(1) of the 1999 constitution makes it (the constitution) a “binding force on all authorities and persons throughout the Federal Republic of Nigeria.”¹³

Beside the fundamental rights guaranteed to every person and indeed every Nigerian citizen as the case may be, there are other rights in other provisions of the constitution which a citizen may as well exercise if he/she wishes. These rights may be called political rights, they are the rights to vote and be voted for.

3.3.4 The Political Rights

Political opportunity is given to all citizens of Nigeria, of course with varying degrees. In the case of election into the National Assembly or state Assembly, all Nigerian citizens, whose citizenship is by birth registration or naturalization could stand for elections.¹⁴ Except for a Nigerian citizen, who relinquish Nigerian citizenship or declare his allegiance to any other country beside Nigeria.¹⁵



Whereas in the case of the President, Vice President, Governor or Deputy Governor, it is only Nigerian citizens whose citizenship are by birth could stand for election to those positions.¹⁶

The standing for election into the Presidency, Governorship, National and State Assemblies are opened to Nigerian citizens or ethnic groups, religion or political persuasion, race, sex etc. There is no distinction or discrimination as far as Nigerian citizen is concerned. For instance an ethnic Ibo could stand for an election in Kano or Oyo state House of Assembly or stand for an election into the National Assembly representing Kano Central constituency or an ethnic Angas can stand for election for the post of Governor of Zamfara State etc.

4.4 CONSTITUTIONAL DUTIES/RESPONSIBILITIES OF GOVERNMENT TOWARDS CITIZENS¹⁷

State goals, objectives and aspirations were clearly provided by the constitution. Every person is obliged to conform and observe the observance of the Fundamental Objectives and Directive Principles of State Policy. However, the provisions as are contained in this part are not justifiable, that means, their legal efficacy are reduced to the level of non existence since, the courts jurisdiction are constitutionally ousted. Nevertheless, the specific items in chapter II of the 1999 constitution has been placed in the exclusive legislative list, and that being so, the President and the National Assembly can properly legislate on any item therein, thereby re-activating the legal efficacy of the provision. In the case of A.G., Ondo State v. A.G. Fed.,¹⁸ the Supreme Court par Uwaifo, J.S.C. said,

..... the constitution itself has placed the entire chapter II under the Exclusive legislative list. By this it simply means that all the Directive Principles need not remain mere or pious declarations. It is for the executive and the National Assembly, working together, to give expression to any one of them through appropriate enactment as occasion may demand.¹⁹

Thus, the Supreme Court has by this decision breathed life into the Fundamental Objectives and Directive Principles of State Policy. The following will serve as the summary of chapter II to the constitution, to the effect that all the three tiers of government are suppose to work for the well



being of all Nigerian citizens; moreover, it shall serve as the scale of measurement for good governance. The list is not intended to be exhaustive

- Security and welfare of the people
- Actively encourage National Integration and prohibits discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties.
 - Encourage free mobility of people, goods and services throughout the federation
 - Secures full residence rights for every citizen in all parts of the federation
 - Encourage inter-marriage among persons from different places of origin, or different religious, ethnic or linguistic association or ties
 - Encourage the formation of associations that cut across ethnic, linguistic, religious or other sectional barriers.
- Promote the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;
- Maintain the society on the ideals of freedom, equality and justice by given every citizen equality of rights, obligation and opportunities before the law;
- Provision of adequate means of livelihood and adequate opportunity to all citizens to secure suitable employment
- Ensure that there are equal and adequate educational opportunity at all levels;
- To create and maintain national ethics on discipline, integrity, dignity of labour, social justice, religious tolerance, self reliance and patriotism;

4.4.1 Duties of the Citizen

- Respect and abide by the Nigerian constitution, its ideals, institutions and legitimate authorities;
- Promote and enhance the power, prestige and good name of Nigeria, and render national service as at when due;
- Respect the dignity, rights, legitimate interest of other citizens and live in unity, harmony and in the spirit of common brotherhood;
- To make positive and useful contribution to the advancement, progress and well being of the community where he resides;
- To render assistance to appropriate and lawful agencies in the maintenance of law and order and



- To honestly declare ones income and prompt payment of tax.

5.5 CONCLUSION

The question of who is a Nigerian, as far as the constitution is concerned is a settled issue. A citizen of Nigerian can prove his citizenship status by establishing the means he acquired it. It is either by birth, registration or naturalization. The most important, especially citizenship by birth is to show that one belongs to a community indigenous to Nigeria, and that being so, the so-called settler/indigene syndrome has no legal basis whatsoever under the Nigerian law or its constitution.

A citizen of Nigeria has been accorded fundamental rights by the constitution and due to his importance it makes a distinction between the right of every person and the right of citizen of Nigeria. He is to enjoy right to family and private life, the right to freedom of movement and the right to freedom from discrimination including the right to acquire and own immovable property anywhere in Nigeria. One therefore begins to question the move by some ethnic or racist chauvinist²⁰ who are calling for restructuring of Nigeria on the basis of ethnicity or region or indigene or settler basis.

It is submitted that modern state like Nigeria should busy itself with public accountability. All citizens should come together "to defend their public interest by making those responsible for public affairs to account on how they have carried out this responsibility," instead of indulging in divisive and destructive issues such as, "Who you are? What is your origin, who is your father? Who is your mother? Are you from Kano? Are you a Hausa? Are you a Yoruba? Are you Urhobo? Who was your grandfather? Where did he come from?".²¹

Beyond the issues of basic fundamental rights, every citizen of Nigeria is given the right to vie for any public office without any discrimination on the basis of ethnicity, status, religious, political opinion etc. A Nigerian citizen is free to vote or be voted for under a principle of universal franchise.

Responsibility for translating the beautifully drafted citizens rights in the Nigerian constitution is squarely and unequivocally on the Nigerian government, be it federal, state or local, for prima facie, gone are the days when government officials will hide under the non justifiability of the Fundamental Objectives and Directive Principles of state policy, by refusing to perform the fundamental obligations vested on them.



The federal government is specifically empowered by the constitution and the decision of the Supreme Court in the case of A.G., Ondo State v. A.G. Federation per Uwaifo J.S.C where he said,²²

“.... The National Assembly can well legislate if in its wisdom it considers it necessary to activate section 15(2) for instance, so that national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties is prohibited...”

Coupled with legislative powers of the national Assembly for this purpose the federal government must see to the cooperation of the states and local governments in these matters. Machinery must be put in place by all the tiers of Government in Nigeria to see that rule of law is maintained and observed if Nigeria is to take its place in the comity of nations, with a national citizenry and a strong, self reliant economy.



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Example of such persons are Chief Bola Ige, Abraham Adesanya, Professor Wole
Soyinka, Joshua Dariye, Solomon Lar and a host of others.
See Analysis Vol.4, No.3 August, 2004 p.12-23.
See A.G. Ondo State v A.G. Federation (supra) at 382