

**CITIZENSHIP IN NIGERIA-EXAMINATION OF THE
PROCEDURE OF ACQUIRING CITIZENSHIP BY
IMMIGRANTS**

BY

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APPROVAL

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DECLARATION

I, Chukwu Oghenebrume Johanna hereby declare that apart from the references made to other people's work which have been duly acknowledged, this work is entirely the result of my research and has neither been presented in a whole nor in part for another degree awarded by Faculty of Law, Delta State University or else where.

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DEDICATION

This dissertation is dedicated to God Almighty, my source of understanding. My lovely husband and mentor Mr. Christian Chibuzor Chukwu and my precious gifts of children. Nwasinachi Enwenoghene Nevin, Nwakwesirieze Efeturi Ian, Chikwesirichi Efetobore Juan, Kachiside Oghenevowero Giovanni and Uwaoma Oghenemame Athalia.

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ABSTRACT

This dissertation examines Citizenship in Nigeria and the Procedure of acquiring Citizenship by Immigrants. The aim and objectives of this study, is to examine the procedure for acquiring citizenship in Nigeria and to further identify the challenges faced by immigrants in acquisition of citizenship in Nigeria. For this study information has been gathered from primary sources such as the Nigerian Immigration law 2015, the Constitution of the Federal Republic of Nigeria 1999 (as amended), and other enactments in force in Nigeria, and case law. Also, treaties, convention of world Organizations, e.g. ECOWAS have been used in this research. Reference is also made to secondary materials consisting of published and unpublished materials, journals, books of expert etc. Again questioners where sent out to further identify the process of entry into Nigeria by non Nigerians, to highlight what the respective immigration policies of Nigeria is on immigrants and to examine the requirements for entry into Nigeria by foreigners. This work provided the comparative analysis of citizenship in some part of the world like U.S.A, Britain and West Africa. This work observed that the number of foreigners who obtain citizenship in Nigeria is low when compered to how Nigerian citizens crave to and acquire citizenship of other countries like U.K and U.S. Joblessness, lack of infrastructural development, insecurity,are situations in Nigeria which pose a challenge to immigrants who are desirous of acquiring Nigerian citizenship. It is recommended that the Federal Government of Nigeria should make the economy viable, should create a vibrant investment policy in the country, creates jobs which would be of benefit to both citizens and immigrants in Nigeria. The Nigerian Immigration Service should intensify a good routine mob up operation to reduce illegal immigrants in the country. Immigrants in the country must be law abiding and should be able to contribute to the development of the country.

CHAPTER ONE

INTRODUCTION

Nigeria is the most populous country in Africa, south of the Sahara and the ninth most populous in the world with population of about 187,353,064 (One Hundred and Eighty Seven Million, Three Hundred and Fifty Three Thousand and Sixty Four).¹ An annual growth rate of 2.9% makes the country one of the fastest growing populations in the world, with a capacity to double itself by the year 2025.²

The position of Nigeria in the African continent and in the West African sub-region has placed on her both a set of obligations and constraints that have come to have great implications for her survival as a nation. Generally viewed as one of the three great economies of Africa (alongside South Africa and Egypt) and despite her continuing poor economic performance reflected by human development indices in the last few decades, the country is still experiencing steady inflow of illegal immigrants from all parts of the continent.

The country however receives the greatest pressure from neighboring States in the West African sub-region because of her large size, population, diversity,

¹ National population Census, 2003

² Population Reference Bureau, 2001

continuing decline in the economy of neighboring states, political instability and the outbreaks' of war in some of these countries³

1.1 **Background to Study**

The movement of persons from one community to another is not a new feature. Immigration is a hot-button issue in developed countries such as United States, United Kingdom and France.

In this study the main focus is on citizenship with particular reference to immigrants who wish to acquire Nigerian citizenship in this research termed immigrants. The study will consider how citizenship of Nigeria can be acquired by non-Nigerians.

The word 'citizenship' has been defined as pertaining to a person who under the constitution and the laws of a particular state is a member of the political community, owing allegiances and being entitled to the enjoyment of some fundamental rights.⁴ Under various constitutions citizenship is acquired in different ways and one of the major hallmarks of such citizenship is the right to move around, reside anywhere, and enter the particular political community to which a citizen belongs.⁵ It is especially in this light that the idea of citizenship is beginning to change in modern times especially in the European union where the idea of

³ Example of State are Liberia, Cote d'voire, Sierra Leone

⁴ Black Law Dictionary 5th Edition.

⁵ Agbakoba v. SSS (1994) 6 NWLR pt. 351,475.

citizenship is beginning to cut across national borders, and the right to enter and reside in one of the nations of the union is generally seen as a right to enter and reside in any of the nations belonging to the Union though with certain limited restrictions⁶.

Citizenship is defined as the status of being a citizen, along with the right, duties and privileges of being a citizen⁷. If you have citizenship in a country you have the right to live, work, vote and pay taxes there. Citizenship is more than merely leaving somewhere. Usually, citizenship is obtained in the country where you were born. But if you are an immigrant from another country you apply for it. A person may have multiple Citizenship. In Nigeria citizenship is based upon the Constitution of the Federal Republic of Nigeria, and can also be obtained by birth, by descent, by registration and naturalization.

A person who legally belongs to a country and has the rights and protection of that country is a citizen. A citizen is an inhabitant of a city or town; especially one entitled to the rights and privileges of a freeman⁸. A citizen is also a member of a state. A native or naturalized person who owes allegiance to a government and is entitled to protection from it to the exercise of his civil right. Under the fourteenth

⁶Kehinde M. Mowoe. *CONSTITUTIONAL LAW IN NIGERIA* Malthouse Press Ltd, at 257. See also Section 14 of the European Union Charter. This would not, for example, include persons with a criminal record.

⁷www.yourdictionary.com

⁸www.mariam.webster.com

amendment of the United State, all persons born or naturalized in the United State and subject to the position thereof are citizen of the United State and of the state wherein they reside.

On the other hand, immigration is the process by which an individual or a family moves to a new country from their country of origin with due formalities at the embassy. The word Immigrate is also used in this study, which means to enter and settle in a foreign country, leaving a past home. It implies a permanent move and applies only to people. This is slightly different from the term migrate. Migrate means to move from one country or region and settle in another. Migrate is an umbrella term under which immigrate falls.

Immigration which is the movement of people to a country has remained at the center of West African history for several centuries. Its centrality has been attributed to its role in influencing the characteristics, distribution and size of the population of the region.

Immigrants are mainly attracted to areas with significant development, which are indicators of economic prosperity. The dominance of the economic factor over the cultural element in influencing immigration is very evident at present. For example since the beginning of large oil export in the early 1970s, Nigeria has experienced a mass influx of immigrants from all over West Africa and beyond. This is also a similar situation in Cotde'Ivoire which its economic boom has attracted

immigrants from Burkina Faso and Niger for more than 30 years. Thus modernization and economic achievement, as in most parts of the world have clearly motivated movement of persons in the sub region.

This study looks at the individual motivation with regards to resident immigrants in Nigeria. This work also looks critically into the validity of the process of becoming citizens in the host county by these immigrants. Related to this is the importance of knowing how well immigrants became acculturated in their host community, or whether they simply imported their own culture and beliefs from their place of origin or having acquired full citizenship of the host community, if the rights, duties, obligations and privileges of the host communities is applicable to these immigrants.

1.2 Statement of Problem

Nigeria is a country which is receptive, even though with consideration to foreigners. For a free flow and entry of persons into Nigeria for residence, work, employment, tourist, the administrative agencies in control of immigration in Nigeria have provided the required procedure.

This research examines and analyses the process of immigration and acquiring of citizenship by immigrants in Nigeria. In effect the following questions are raised for analysis.

1. What is the procedure for requisition of Nigerian citizenship?
2. What is the procedure for entry into Nigeria?
3. How can immigrant become a citizen in Nigeria?

1.3 Objectives of the Study.

The aim of this work is to examine the procedure for acquiring citizenship in Nigeria and to further identify the challenges faced by immigrants in acquisition of citizenship. The specific objectives are:

1. to analyzed the concept of citizenship in Nigeria
2. to identify the constitutional provision for acquiring citizenship in Nigeria
3. to identify the right and duties of citizen in Nigeria
4. to identify the process of entry into Nigeria by non Nigerians
5. to highlight what the respective immigration policies of Nigeria is on immigrants.
6. to examine the requirements for entry into Nigeria by foreigners.
7. to examine the administrative bodies responsible for entry into Nigeria.
8. to analyze the effect of all laws, treaties, conventions regarding immigrant and immigration.
9. to identify the impact of the compliance to the rules on immigration by immigrants and to examine the benefits of being a legal immigrant.

1.4 Scope of Study

The focus is on foreigners or persons entering into Nigeria. The subject of this study is immigrants.

1.5 Research Method

For this study information has been gathered from primary sources such as the Nigerian Immigration law 2015, the Constitution of the Federal Republic of Nigeria 1999 (as amended), and other enactments in force in Nigeria, and case law. Also, treaties, convention of world Organizations, e.g. United Nations, ECOWAS, have been used in this research. References is also made to secondary materials consisting of published and unpublished materials, journals, books etc, though mainly persuasive but play a significant role in this research.

1.6 Literature Review

Legal scholars like Harris – Todaro, Lewis Fei and Ramic have given theoretical explanations for migration and challenges of migration which includes difficulty to fit in. Other scholars use a human rights perspective to explore the relationship between immigration and racism. These scholars have not identified the process migration and even the challenges faced by these immigrants in the host communities.

However a number of scholars have gone beyond mere pragmatic observation and have formulated theoretical models to explain the phenomenon of migration. The objective of these scholars was to understand the dynamics of migration and assist authorities to introduce better focused policies to address the issues at state. These theories have made no distinction between internal and international immigration.

Lewis, Fei and Ranis focused their study on the surplus rural manpower model.⁹ They focused on migration which is engineered by the existence of excess rural manpower unable to secure adequate remunerative employment in agriculture? Migration is regarded by this scholar as positive and capable of stimulating economic growth and development this scholar have limited their research to migration.

Lenshie, Nsemba Edward and Johnson Abel focused their research on ethnicity and citizenship crisis in Nigeria.

There has been little or no study or focus on the challenges foreigners face or faced by immigrants while they carry out the necessary procedure for being legal immigrant and while immigrating to the host communities. Whether or not the proper procedures have being followed, or these persons having acquired citizenship in these countries are being treated as and recognized as person with right and duties, not as aliens have not been extensively considered.

⁹ D. Byerlee, et al, "RURALURBANMIGRATIONINSIERRALEON:" DETERMINANTS AND POLICY.

AkanniAkiyemi and others in their work concentrated on the objective of the strategy to enhance efficient migration from data management, governance, processing sharing and dissemination across Ministries Department and agency in Nigeria (MDAs) in Nigeria.¹⁰ The emphasis was on accurate and reliable data to national development as it relate to migration in Nigeria.

Their efforts are commended, but there is need to have the coherent frame work for studying immigration in Nigeria. They noted that the major sources of migration data in Nigeria are censures survey and administrative record.

Kehinde M. Mowoe considering “CITIZENSHIP” in Nigeria¹¹ discussed extensively on the subject. He stated that a person who is not a citizen of Nigeria by birth or eligible for citizenship through registration can become a Nigerian citizen through naturalization. He also gave the provision of section 27 of the constitution of the Federal Republic of Nigeria 1999 (as amended) which provides for the qualities an applicant must posses before the president can grant a certificate of naturalization. He also considered the ECOWAS treaty on movement of persons, goods and services¹² which provides for free movement within national boarders, being the hallmark of citizenship; was a restriction for ECOWAS states that is citizens of whose countries are members of ECOWAS. Although this

¹⁰ AnkaniAkiyemi and DamianoBeltrane. “NATIONAL MIGRATION DATA MANAGEMENT STRATEGY”, Nov. 2013

¹¹ KehindeM-Mowoe. *CONSTITUTIONAL LAW IN NIGERIA*. MalthousePresslimited 2008 at chapter 7, at. 261- 262

¹² Ibid page 265. ECOWAS treaty. May, 28th 1975 at Lagos

provision is to ensure some measure of movement and residential right to community citizens only, the author noted that it can therefore not be seen as an addition to the manner of acquisition of citizenship in Nigeria. In relation to international treaties and conventions, there is no obligation to incorporate this provision into domestic law.

Chapter 7 of His work was centered on citizenship in Nigeria. But one will ask how can a non-Nigeria acquire citizenship in Nigeria. There was little or no provision as to the process of naturalization in Nigeria. There is a need to understand the validity of the process of becoming a citizen in Nigeria by an Immigrant.

Peter Oluyede discussing citizenship by Naturalization,¹³ stated that the effect of **Section 25 of the 1979 Constitution of the Federal Republic of Nigeria (now section 27 of the Constitution of the Federal Republic of Nigeria 1999 as amended)** is that a person who cannot claim to be a Nigerian by birth or by registration can still acquire the citizenship of Nigeria by naturalization if such a person satisfies the president that he is a person of full age and capacity, good character shown a clear intention of his desire to be domiciled in Nigeria, the Government of the State where he is or intends to reside believes he (the applicant) acceptable to the local community in which he is to live permanently and

¹³P.A Oluyede.*CONSTITUTIONAL LAW IN NIGERIA* Evans Brothers 2001 chapter 5 at 140 to 141

assimilated the way of life of Nigerians in that part of the Federation. He is a person who has made or is capable of making useful contributions to the advancement, progress and well being of Nigeria. But of course he must have taken the oath of Allegiance prescribed in the **sixth Schedule to the 1979 Constitution**. And finally he has, immediately preceding the date of his application, either (1) resided in Nigeria for a continuous period of 15 years or (2) resided in Nigerian continuously for a period of 12 months and during the period of 20 years immediately preceding the period of 12 months has resided in Nigeria for periods amounting in aggregate to not less that 15 years. What are the implications of Naturalization? What benefit will an immigrant enjoy once he has obtained citizenship in Nigeria. Is the procedure as stated in section 27 of the constitution of Nigeria 1999 obtainable? is the procedure transparent?

A. Yusuf in his research on citizenship¹⁴ restricted himself to “Citizenship Education” in Nigeria. He noted that citizenship education should be introduced at all levels of our educational system. He went on to say that education should be made free and compulsory at least up to Senior Secondary School Level. As much as I will agree with him that citizenship education should be introduced in academic there is still the need for a comprehensive research or study of

¹⁴A. YUSUF “CITIZENSHIP EDUCATION: AN INSTRUMENT FOR UNITY AND STABILITY IN NIGERIA DEPARTMENT OF ART AND SOCIAL SCIENCE EDUCATION”, UNILORIN, ILORIN NIG.

acquisition of citizenship in Nigeria by non-Nigerians. There should be an education on how foreigners, immigrants can be adopted in Nigeria. This is part of what this work seeks to achieve.

Moreso, writers like Professor Adejumo A. Afolayan, Dr. Godwin O. Ikwuyatun and Mr. Olumuyiwa Abejide have written a country paper on Dynamics of International Migration in Nigeria ,¹⁵ reviewing different works on International Migration in Nigeria saying that; migration data and information supplied for the country varies in their quality and comprehensiveness. They concluded by calling for a better and more comprehensive knowledge of the phenomenal in order to manage migration better for development purpose.

It is important to state here that before considering or negotiating for a comprehensive knowledge on the data migration, the purpose, reason for migration the immigrant involved in migration, the immigration facility and immigration process must be adequately and coherently be spelt out.

Gabriel De La Paz in His Work Titled “Citizenship Identity and Social Inequality”¹⁶

noted that citizenship is a legal status and identity. He also considered the civil right

¹⁵ Professor Adejumo A. Afolayan. “DYNAMICS OF INTERNATIONAL MIGRATION IN NIGERIA” (A Review of literature) 2008

¹⁶ Gabriel De La Paz “CITIZENSHIP IDENTITY AND SOCIAL INEQUALITY”

of citizens. This work however did not state who a citizen of a country is and identified the classes of citizen in a country. This work will answer that.

Again many Nigerian scholars and textbook writers have extensively focused on citizenship education in Nigeria.

Anumba Florence Nnenna, in her work “Citizenship education for Nigeria for the young or the old”¹⁷ made reference and limited her study to method of acquiring citizenship in Nigeria, of which includes, citizenship by birth, citizenship by naturalization, citizenship by registration. She also identified the right of citizens in Nigeria as provided in chapter 4 of the 1999 constitution of the Federal Republic of Nigeria (as amended.) She recommended that there should be an education for citizenship such that all levels of the country should received perfect sensitization on citizenship.

E.S.IEjere has also edited a book on citizenship education in Nigeria. He noted the ways of acquiring citizenship in Nigeria, which is by birth, by registration and naturalization. There was also an emphasis on the benefits of being a citizen of Nigeria.¹⁸

¹⁷Anumba Florence Nnenna, “CITIZENSHIP EDUCATION IN NIGERIA: FOR THE YOUNG, OR THE OLD” MCSER Publishing Rome-Italy. Vol. 2, No. 10, October, 2013 at 42 and 44.

¹⁸Dr. E. S. I. Ejere et al. *CITIZENSHIP EDUCATION IN NIGERIA*. Governance Study Group, Uyo, 2014.

G.N. Okeke and C.EOkeke have studied the “Acquisition of Nigerian Citizenship by Naturalization” I agreed with them when they noted that

“Acquisition of Nigeria is different from the right of entry and domicile within a specified period of time. This right is however subject the Nigerian immigration law... just as it is required in Nigeria that for any person who is a non-Nigeria to enter the territory of Nigeria, he must secure the Visa to so enter from the consular mission of Nigeria in the person’s country so also is the requirement of visa before entry made a subsisting rule by other consular missions in the world... a non-Nigeria wishing to come to Nigeria must of necessity fulfill the condition stipulated by the Nigerian immigration laws”

But the mode of acquiring citizenship by naturalization must be adequately spelt out. Which persons are eligible for acquiring citizenship in Nigeria? Indeed are there challenges immigrant face in acquisition of Nigerian citizenship.

BronwenManby, who did a comprehensive work on “Citizenship Law in Africa”¹⁹, discussed briefly on Naturalization as a method of acquiring citizenship in a country. In his comparison of naturalization in countries he did not extensively consider the various methods of naturalization in countries which he compared.

There was no provision for the method of acquiring citizenship by naturalization in the countries he mentioned. This work has also looked at that.

¹⁹BronwenManby.CITIZENSHIP LAW IN AFRICA. A Comparative Study, Open Society Foundation, New York. 2010.

CHAPTER TWO

CONCEPT OF CITIZENSHIP

2.1 Definition of Citizenship

The Purpose of defining citizenship is to know and ascertained category of persons that can avail themselves of the privileges rights, duties etc. accruing to the members of the community.

To attempt to define such a term as “Citizenship” may pose difficulty in modern times. The definition or meaning of words is treated as shown by the ways in which it is used in the context of the language²⁰. The legal scholar Ryle has noted that

‘The use of an expression or the concept it expresses, is the role it is employed to perform not anything or person or event for which it might be supposed to stand’²¹

Definitions are good to the extent that they are approximately correlated to the facts on matter described. So a definition of citizenship must serve to elucidate the manner in which the words used are to function in the context in which it may be used in the legal system. Relative to the term citizenship is the word citizen which is also going to be closely defined in this chapter.

²⁰ CYO Adej, *DEFINITION OF LAW*. Lecture on Jurisprudence, Faculty of Law, Delta State University Oleh Campus 2016.

²¹ Ibid

Citizenship was defined by the Longman Dictionary²² as “the legal right of belonging to a particular country. A citizen is someone who lives in a particular town, country or state and has rights and responsibilities there.”

In the *Nottebohn*²³ case the court upheld the principle of effective nationality, (the *Nottebohn* principle) where the national must prove a meaningful connection to the state in question.

A citizen is a participatory member of a political community. Citizenship is gained by meeting the legal requirement of a national state, or local government.

A nation grants certain rights and privileges to its citizens. The word ‘citizenship’ has been defined as pertaining to a person who under the constitution and the laws of a particular state is a member of the political community, owing allegiance and being entitled to the enjoyment of some fundamental rights.²⁴ Under common law, “the idea of the British subject was rooted in the idea of allegiance, the bond which linked a man with his feudal lord. In return for allegiance, a man was entitled to his lord’s protection”²⁵

²²Longman Dictionary of Contemporary English page 229

²³*Liechtenstein v. Guatemala* [1955] ICJ

²⁴Black Law Dictionary 5th Edition

²⁵*SMILE CONSTITUTIONAL AND ADMINISTRATIVE LAW* (ed: Harry Street and Rodney Brazier.) at 415

No one could divest himself of such allegiance, as it may be regarded as treason. In **Herriot v. City of Seattle**,²⁶ Citizens are defined as members of a political community who in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and protection of their individual as well as collective rights’.

There is no doubt from these definitions that a citizen is the recipient of some basic rights provided for in the constitution and laws of a nation, in return for which certain minimum level of allegiance is expected from him towards the community of which he is a citizen. As has been noted and decided in a number of cases, such citizenship ‘cannot be shifted, cancelled, or diluted at the will of a federal government, state or any other governmental unit.’²⁷ Under various constitutions it is acquired in different ways, and one of the major hallmarks of such citizenship is the right to move around, reside anywhere, exist and enter the particular political community to which a citizen belongs.²⁸

According to **Article 27 (i) of the ECOWAS Treaty**,²⁹ “Citizens of member States shall be regarded as Community citizens. Again the **Protocol Relating to Free Movement of Persons, Residence and Establishment** declared that: “a citizen of the community means a citizen of any member State”. From the above

²⁶81 Wash 2d48, 500 p 2d 109, 109

²⁷Afroyim v. Rusk 387 U.S 253 (1967)

²⁸Agbakoba v. SS & S (1994) 6NWLR pt. 35, 475

²⁹ECOWAS TREATY OF 1975

definitions, it becomes clear that any person who is a citizen of any member State of the Community is a Community citizen. Citizenship of the Community Member State must be in accordance with the laws of that State.

Article 1 of the Treaty states that “Community Citizen or Citizens” means any national (s) of Member States who satisfy the conditions stipulated in the Protocol defining Community citizenship.

Citizenship is one of the legal institutions whose content and meaning in society depends wholly on the relationship between either the individual or the population at large and state power or authority.³⁰ Though the term citizenship, served as a certain form of state consolidation of the free population,³¹ its significance had varied in different societies and corresponding socio-economic formations.

In modern times especially in the European Union, the idea of citizenship is beginning to cut across national borders, and the right to enter and reside in one of the nations of the union is generally seen as a right to enter and reside in any of the nations belonging to the Union though with certain limited restrictions.³² Note generally that the idea of citizenship refers to only natural persons in terms of human beings and not to artificial persons, such as companies or industries.³³

³⁰M.O.UGasiokwu *ECOWAS: PROBLEMS OF CITIZENSHIP AND FREE MOVEMENT* (WITH BASIC DOCUMENTS), ENUGU Chenglo LTD, 1998

³¹*Ibid.* (P. 29) Shevtsov v. Citizenship of the U.S.S.R: A legal study (Moscow: Progress and publication; 1984 p.9)

³²Section 14 of the European Union Charter

³³*Insurance Company v. New Orleans* 13 Fed. Ca. 67 (C.C.O. La) (1870)

2.2 Brief History of Citizenship

The first form of citizenship was based on the way people lived in ancient Greece, in small-scale organic communities of the polis.³⁴ The responsibilities and duties of citizenship were deeply connected with everyday life in the polis. This form of citizenship was based on the obligations of citizens towards the community, rather than rights given to the citizens of the community. In those days, people's own destiny and the destiny of the community were strongly linked. In addition, by fulfilling their obligations to the community, citizens earned respect and honour. In Athens, citizens were both ruler and ruled. Important political and judicial offices were rotated and all citizens had the right to speak and vote in the political assembly.

However, an important aspect of polis citizenship was exclusivity. Citizenship in ancient Greece and Rome (as well as in medieval cities that practiced polis citizenship) was exclusive and equality of status did not exist. This was very acceptable at the time. Citizenship was only given to some, and those who had it, had a much higher status than non-citizens. Women and slaves were never afforded citizenship as they were thought to be incapable of making rational decisions and participating politically. The decision to determine if someone was worthy of

³⁴The word 'polis' originate from ancient Greece. It means city or city gate. It can also be interpreted as a body of citizens or citizenship.

citizenship was often based on their wealth, their political participation and their heritage, because both parents had to have been born in the polis.

In the Roman Empire, Citizenship was expanded to include the entire empire. Romans encouraged dual citizenship, demanding loyalty to both the local community and the Roman Empire. In other words, an individual had to be loyal to Rome. This allowed Roman citizens freedom of trade and freedom of movement within the whole empire. They found that taxes were collected more easily and the need for expensive military power in areas where the populations were citizens was reduced. In the Roman era, citizenship became no longer a status symbol for political participation but had been reduced to a judicial safeguard and the expression of rule and law. However, active citizenship rights were still only given to the higher classes and thus citizenship was still, in part, seen as a status symbol.

2.3 History of Citizenship in the United States

Citizenship began in colonial times as an active relation between people working cooperatively to solve municipal problems and participating actively in democratic decision-making, such as in New England town hall meetings. People met regularly to discuss local affairs and make decisions. These town meetings were

described as the “earliest form of American democracy”³⁵ which was vital since citizen participation in public affairs helped keep democracy “sturdy”, according to Alexis de Tocqueville in 1835.³⁶ A variety of forces changed this relation during the nation’s history. Citizenship became less defined by participation in politics and more define as a legal relation with accompanying rights and privileges. While the realm of civic participation in the public sphere has shrunk,³⁷ the citizenship franchise has been expanded to include not just propertied white adult men but black men and adult women.

Earlier on, U.S. citizenship was not given to people of Indian or East Asian descent, A.K. Mozumdar was the first person born in the Indian sub-continent to attain U.S. citizenship. Few years earlier, as a result of the 1898 *United States v. Wong Kim Ark* Supreme Court decision, ethnic Chinese born in the United States became citizens. During World War II, due to Japan’s heavy involvement as an aggressor, it was decided to restrict many Japanese citizens from applying for U.S. citizenship, while Chinese citizens encountered no trouble, because of China’s alliance with the United States. The Equal Nationality Act of 1934 was an American law which allowed foreign-born children of American mothers and alien fathers who had entered America before age 18 and lived in America for five years

³⁵Jonathan Alter (March 3, 2010) “WHO CARES ABOUT IOWA”

³⁶Jean Bethke Elshtain. "DEMOCRACY AT CENTURY'S END (SPEECH)" Brigham Young University. (1996-10-29)

³⁷Naomi Wolf. "BOOKS: THE END OF AMERICA WASHINGTON POST." (September 27, 2007) see also, Paula Span "JERSEY; AN EXERCISE IN COMMUNITY" The New York Times. (November 20, 2005).

to apply for American citizenship for the first time.³⁸ This law equalized expatriation, immigration, naturalization, and repatriation between women and men.³⁹ However; it was not applied retroactively, and was modified by later laws, such as the Nationality Act of 1940.⁴⁰

2.3.1 Requirement for Citizenship in U.S.A

People applying to become citizens must satisfy certain requirements. For example, there have been requirements that applicants have been permanent residents for five years (three if married to a U.S. citizen), be of “good moral character” (meaning no felony convictions), be of “sound mind” in the judgment of immigration officials, have knowledge of the Constitution, and be able to speak and understand English unless they are elderly or disabled.⁴¹ Applicants must also pass a simple citizenship test.⁴² Up until recently, a test published by the Immigration and Naturalization Service asked questions such as “How many stars are there in our flag?” and “What is the Constitution?” and “Who is the president of the United States today?”⁴³ At one point, the Government Printing Office sold

³⁸Sally Kitch. “THE SPECTER OF SEX: GENDERED FOUNDATIONS OF RACIAL FORMATION IN THE UNITED STATES.” SUNY Press. 6 August 2009 at 179

³⁹Ervin Eugene Lewis “NEW FRONTIERS OF DEMOCRACY: THE STORY OF AMERICA IN TRANSITION.” American Education Press, Incorporated. 1935

⁴⁰Richard Marback. *GENERATIONS: RETHINKING AGE AND CITIZENSHIP* Wayne State University Press. 2015 at. 203

⁴¹Andrew Taylor. “SENATE BLOCKS CENSUS US-CITIZENSHIP QUESTION” Newark Star-Ledger (nj.com). (2009-11-05)

⁴²Ibid

⁴³Ibid

flashcards for \$8.50 to help test takers prepare for the test.⁴⁴ In 2006, the government replaced the former trivia test with a ten-question oral test designed to “shun simple historical facts about America that can be recounted in a few words for more explanation about the principles of America democracy, such as freedom”.⁴⁵ One reviewer described the new citizenship test as “thoughtful”.⁴⁶ While some have criticized the new version of the test, official counter that the new test is a “teachable moment” without making it conceptually more difficult, since the list of possible questions and answers as before will be publicly available.⁴⁷ Six correct answers constitutes a passing grade. The new test probes for signs that immigrants “understand and share American values”.⁴⁸

There is also a provision for honorary citizenship. The title of “Honorary Citizen of the United States” has been granted eight times by an act of Congress or by a proclamation issued by the President pursuant to authorization granted by Congress. The eight individuals are Sir Winston Churchill, Raoul Wallenberg, William Penn, Hannah Callowhill Penn, Mother Teresa, the Marquise de Lafayette, Casimir Pulaski, and Barnardo De Galvez Madrid, Viscount of Galveston and Count of Galvez.

⁴⁴Bill Nichols "STUDY GUIDE FOR U.S. CITIZENSHIP TEST OMITTS FREEDOM OF PRESS". USA Today.2006-05-16.

⁴⁵Ben Arnoldy "US TO UNVEIL NEW CITIZENSHIP TEST".Christian Science Monitor. 2009-11-19.

⁴⁶Editorial staff."A COMMITMENT TO CITIZENSHIP"The New York Times. September 25, 2009

⁴⁷Supra.Footnote 26.

⁴⁸Ibid.

2.3.2 Citizenship and Nationality In U.S.A

Citizenship in the United States comprises a larger set of privileges and rights for those person that are U.S. citizens which is not afforded to individuals that are only U.S. nationals by virtue of their rights under U.S. Nationality Law.⁴⁹ United States law makes a precise distinction between a United States citizen and a United States national. Although all U.S. citizens are also U.S. nationals, not all U.S. nationals are U.S. citizens. The United States Naturalization Act of 1790 provided the first rules to be followed by the United States in the granting of national citizenship after the ratification of the U.S. Constitution. A number of other Acts and statutes followed the Act of 1790 that expanded or addressed specific situations but it was not until the Immigration and Nationality Act of 1952⁵⁰, codified under Title 8 of the United States Code (8 U.S.C. ch. 12) that the variety of statutes governing citizenship law but were organized within one single body of text.⁵¹

The Immigration and Nationality Act of 1952 set forth the legal requirements for the acquisition of American nationality. The Fourteenth Amendment (1868) addressed citizenship rights. The United States nationality law, 8 U.S.C § 1408, despite its “nationality” title, comprises the statutes that embody the law regarding both American citizenship and American nationality. For example, as specified in

⁴⁹Danny Cevallos. “SHOULD AMERICAN SAMOANS BE CITIZENS” CNN. 11 February 2014. Retrieved 7 March 2015.

⁵⁰Pub.L. 82-414, 66 Sta. 163, enacted June 27, 1952.

⁵¹Hymowitz; Weissman. “A HISTORY OF WOMEN IN AMERICA” Bantam. 1975

8 U.S.C § 1408, a person whose only connection to the U.S. is through birth in an outlying possession (which, as of March 2015, was defined in 8 U.S.C § 1101 as American Samoa and Swains Island), or through descent from a person so born, acquires only U.S nationality, not U.S. citizenship. Such person is said to be a U.S. national, not U.S. citizen, or simply a U.S. noncitizen national.

2.3.3 Privileges for Immigrants in U.S.A

The United State of America also organizes citizenship ceremonies. This citizenship process has been described as a ritual that is meaningful for many immigrants.⁵² Many new citizens are sworn in during Fourth of July ceremonies.⁵³ Most citizenship ceremonies take place at offices of the U.S. Citizenship and Immigration Services.

Many of the rights in the Constitution apply to both immigrants and citizens. In the 1880s, California passed an ordinance that prohibited the operation of Laundromats in wooden buildings. Most of the laundries were owned by Chinese people, and the law was only enforced against them. In *YickWo v. Hopkins*,⁵⁴ the Supreme Court held that the ordinance was a violation of the Equal Protection clause of the Fourteenth Amendment. In 1974, the Supreme Court held in *Lau v.*

⁵²Ibid. Footnote 26

⁵³Julia Preston "SURGE SEEN IN APPLICATIONS FOR CITIZENSHIP". The New York Times. (July 5, 2007).

⁵⁴*YickWo v. Hopkins* 118 US 356 (1886)

Nichols, that non-English speaking students were entitled to the same education as native English speakers. Then, in another important case, *Plyler v. Doe*,⁵⁵ in 1982, the Supreme Court further held that undocumented immigrants were entitled to a free and equal K-12 public education. Additionally, Title VI and VII of the Civil Rights Act of 1964 prohibit discrimination based on race or national origin.

The Status of Citizenship in the United States. Being a citizen, of the USA is a status that entails specific rights, duties and benefits. Citizenship is understood as a “right to have rights” since it serves as a foundation for a bundle of subsequent rights, such as the right to live and work in the United States and to receive federal assistance.⁵⁶

There are two primary sources of citizenship: birthright citizenship, in which a person is presumed to be a citizen provided that they are born within the territorial limits of the United States, or other circumstances existing at the time of their birth (for example, citizenship of a parent), and naturalization, a process in which an immigrant applies for citizenship and is accepted. These two pathways to citizenship are specified in the Citizenship Clause of the Constitution’s 1868 Fourteenth Amendment which reads:

“All persons born or naturalized in the United State,

⁵⁵*Plyler v. Doe* 457 U.S (1982)

⁵⁶Matthew A. Crenson and Benjamin Ginsberg. “DOWNSIZING DEMOCRACY: HOW AMERICA SIDELINED ITS CITIZENS AND PRIVATIZED ITSPUBLIC” The Independent Institute.2004

*and subject to the jurisdiction thereof, are citizens
of the United States and of the State wherein they reside.”*

U.S. law permits multiple citizenship. A citizen of another country naturalized as a U.S. citizen may retain their previous citizenship, though they must renounce allegiance to the other country. A U.S. citizen retained U.S. citizenship when becoming the citizen of another country, should that country’s laws allow it. Citizenship can be renounced by American citizens who also hold another citizenship via a formal procedure at a U.S. Embassy,⁵⁷ and it can also be 30 days restored.⁵⁸

2.4 Citizenship in Britain

The balance between these rights and duties varies from state to state and from time to time. For example, in times of war, the duty expected by your state may far outweigh the rights and liberties received at the same time; though when peace returns, the situation may be reversed. This was true during the Second World War from 1939 to 1945 and during the Cold War in the 1950s when many Britons were obligated to serve for their nation, though war time patriotism generally made this a duty that many were willing to accept.

⁵⁷ 8 U.S.C. § 1481, see also "Legal Considerations". Travel.state.gov. Retrieved 2014-04-08.

⁵⁸ Jerry Markon. "JUDGE OFFERS LESSON IN U.S. CITIZENSHIP" June 12, 2008

The exact balance between rights, liberties is always changing, and it is a matter that citizens in particular societies at different times choose to resolve either by negotiation or sometimes conflict. Citizenship implies that everybody has access to the same rights and is protected by the same laws. Most people living in the UK have certain rights as the majorities are British citizens. They have the right to vote in elections if they are over the age of eighteen, and, for example, the right to free education from the ages of five to sixteen and the right to freedom of speech so long as they do not break the laws of slander. People living in the UK are subjects as well as citizens. They were subject to the monarchy up until the execution of Charles 1 in 1649, but the drive for equal rights put an end to the belief that monarchs had absolute power, and from then on citizen's rights became more obvious and UK citizens were made subject to the law of the land rather than to monarchical power.

Unlike in the USA and many other states, the rights and liberties of British citizens are not set out in a single constitutional document; instead they are included in the uncodified British constitution. Some of these rights and liberties are the results of custom and convention, whereas others are contained in the written Acts Parliament.

The rights and liberties contained in these Acts have resulted from the struggle waged by people and their representatives against the absolute power of their rulers

at the time. The key acts are the Magna Carta in 1215, Habeas Corpus in 1679 and the Bill of rights in 1689. Further acts have subsequently been passed extending the rights and liberties of British citizens, for example slavery was abolished in 1833, a Race Relations Act was passed in 1976 and the Data Protection Act was passed in 1984. In addition to this internal legislation, three international agreements have a bearing on rights in the UK. The first is the United Nations Declaration of Human Rights, agreed in 1948; the second is the European Convention on Human Rights, signed in 1950; and the third is the Maastricht Treaty which had been approved by all EU member states by the end of 1993.

As a result of the above agreements, British citizens have the following basic and liberties.

1. Freedom of Movement;
2. Freedom from Arbitrary Arrest or Unjustified Police Searches;
3. Freedom of Conscience in Matters of Religion and Politics;
4. Freedom of Expression;
5. Freedom of Association, Including the Right to Protest Peacefully;
6. Social Freedom – Such as the Right to Marry, Divorce, Procure Abortions or have Homosexual Relations; the Right to Vote and to Stand for Election;
7. The Right for a Fair Trial;

8. The Right not to be Coerced or Tortured by Agents of the State;
9. The Right not to be Subjected to Surveillance without Legal Process;
10. The Right to Own Property.

Since the late 1980s, there have been three main reasons why the debate what citizenship is and what it should be has risen up the political agenda. Firstly, there was a campaign by the conservative government under John Major to promote active citizenship. Secondly, there was public concern that legislation passed in the 1980s and early 1990s resulted in the decline of many of the rights and liberties enjoyed by British citizen. Thirdly, the Labour Government elected in 1997 promised to take the debate in a new direction:

Millennium symbolizes a new era opening up for Britain ... Our aims is no less than to set British political a new course for the future Labour, 1997

The concept of active citizenship was a result of the conservative's government experience in the 1980s. The government began to look for solutions to the problems of rising crime and rising public spending which did not involve government intervention. One solution was to suggest that responsibility for society's problems did not lie within the government, but with the whole community. In other words, every British citizen had a duty to an active part in solving society's problems. To promote the idea of this active citizenship, John launched the citizens Charter initiative in the summer of 1991. Together these two

notions demonstrated the dual nature of citizenship, with its concern for both the responsibilities of citizens towards each other and also with what can be expected as a right from the state.

Since Parliament is sovereign, it can pass laws that take away, or add, to any or all of the rights enjoyed by citizens. This means that the rights and responsibilities enjoyed by British citizens are entirely dependant on the government of the day. Citizens have no right of appeal if the government chooses to take away a right or liberty that it is of importance to them. This can be seen as unsatisfactory especially when a single party holds office for a prolonged period, especially given the fact that no single party has won 50% of the vote in all general elections since 1945. There were a number of occasions in the 1980s and early 1990s when conservative opponents were outraged at the government's erosion of civil liberties. As an example, in 1990, many protesters at an anti-poll tax demonstration in London complained that they were being denied their right to peaceful public protest.

It was clear from Labours 1997 general election manifesto that citizenship was high on their agenda, and that they had a new approach to the issue. In their manifesto, for example, a number of pledges were made which had been designed to clearly strengthen the rights of British citizens. These included a Freedom of information Act; the incorporation of the European convention on Human Rights

into British law; the promise of legal aid for those seeking to enforce their rights; improved rights for workers through a minimum wage and signing the Social Chapter of the Maastricht Treaty; and statutory trade union recognition. Labour's commitment to strengthening citizens' rights suggested that it had a different approach from the previous conservative administration. At the same time as promising to strengthen citizens' rights, the Labour government placed emphasis on the idea that citizens have responsibilities to uphold.

In July 1997, the government published a white paper that gave the commitment to strengthen education for citizenship. The government's commitment to education for citizenship indicated that citizenship was high on its agenda. On the 2nd October 2000, the Human Rights Act came into force. It was billed as the biggest change to the justice system since the Magna Carta, and gives the rights to life and a fair trial, freedom from torture, freedom of expression, and freedom to marry and have a family.

Citizens should be able to use the Act instead of resulting to the lengthy process involved in taking a claim to the European Court of Human Rights in Strasbourg. The Home Secretary of the time, Jack Straw, said the act would develop a culture of rights and responsibility, and denied that the Act limited Parliament's power to make law. The pure fact that a change to citizenship legislation has been made under the current Labour government that was described as the biggest change to

the justice system since 1215, certainly proves that the government is committed to citizenship and highlights its relevance to Britain in the year 2002.⁵⁹

2.5 CITIZENSHIP IN AFRICA

The laws governing citizenship in most countries in the world-reflect a compromise between two basic concepts: *jus soli* (literally, law or right of the soil), whereby an individual obtains citizenship because he or she was born in a particular country; and *jus sanguinis* (law or right of blood), where citizenship is based on descent from parents who themselves are or were citizens. In addition to these two principles based on birth, two other factors are influential in determining citizenship for adults: marital status, in that marriage to a citizen of another country can lead to the acquisition of the spouse's citizenship, and residence within a country's borders.

Few African countries provide for an explicit right to a nationality, Only South Africa and Ethiopia provide in their constitutions for a child to have a right to a nationality, and a handful of other countries establish such a right in other laws. In Ethiopia, moreover, the citizenship law does not comply with the constitution, failing to provide a right to nationality for a child born in the country who would otherwise be stateless. Even so, the citizenship laws of many African countries are generous. The simplest way of ensuring that children born in a country are not at

⁵⁹C N Trueman "CITIZENSHIP" The History Learning Site, 27 March 2015. historylearningsite.co.uk.

risk of statelessness is to apply an absolute *jus soli* rule, providing automatic citizenship to any child born on national soil.

Those countries whose laws do this (with an exception for the children of diplomats or other representatives of foreign states) include Chad, Lesotho, and Tanzania. However, the laws of more than 20 other countries either provide automatic citizenship from birth for children born to parents who were themselves also born there or give children born on the territory to non-citizen parents the right to claim citizenship from birth by origin if they are still resident in the given country when they reach the age of majority. A handful of other countries (Cape Verde, South Africa, Namibia and Sao Tome and Principe) grant citizenship to children born on their territory to parents who are legally resident on a long-term basis. Several other civil law countries have additional provisions allowing for those persons who have always been treated as citizens to obtain citizenship papers without the need for further proof of descent or location of birth. Gabon's 1998 Nationality Code states that children born in the border zones of countries neighbouring Gabon or raised by Gabonese citizens who have lived in Gabon for 10 years can claim Gabonese nationality by origin when they reach the age of majority.

More than half Africa's countries thus provide-at least in law-for most children born on their soil to have the right to citizenship from birth or to claim it at the age of

majority. But more than 20 other countries either fail to make any provision for children born on their territory with no other option to have a right to a nationality, or provide the fallback right to a nationality only for children born on the territory with unknown parents, an extremely rare circumstance. Among them are: Algeria, Botswana, Burundi, Cote d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Guinea-Bissau, Kenya, Liberia, Libya, Madagascar, Mauritius, Nigeria, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, and Zimbabwe. This issue is of particular concern where citizenship by descent discriminates on the basis of gender, leaving the children of non-citizen fathers especially vulnerable. This situation exists in its most acute form in Madagascar and Swaziland, and in some cases—despite recent reforms Morocco.

2.5.1 Naturalization in Africa

Most African countries permit in principle the acquisition of citizenship by naturalization. There is also the possibility or alternative for some people, such as spouses of citizens, to acquire citizenship by an easier process, usually known as “registration” in Commonwealth countries, or “declaration” or “option” in civil-law countries. In practice, however, obtaining citizenship by naturalization or by these other process can be very difficult.

The criteria on which naturalization or registration is granted vary, but usually include long-term residence or marriage to a citizen. In some countries, acquiring citizenship by naturalization is straightforward, at least in theory. More than 20 countries provide for a right to naturalize based on legal residence of five years; but Chad, Nigeria, Sierra Leone, and Uganda require 15 or 20 years, and the Central African Republic requires as many as 35 years. South Africa provides a two-step process: a person must first become a permanent resident, a process which usually takes five years; following acquisition of permanent residence, a further five years’ residence is required to become a citizen (except for spouses).

The other conditions applied for naturalization are often designed to make it more difficult for those persons who are not “natives” of the country to obtain citizenship. In many countries, investigations are required, including interviews and police inquiries. Under the 2004 Nationality Law adopted by the DRC,

applications for naturalization must be considered by the Council of Ministers and submitted to the National Assembly before being awarded by presidential decree. Moreover, the individual must have rendered “distinguished service” (d’*eminentes services*) to the country. In Egypt, naturalization is exceedingly rare and the grounds for it discriminate in favour of those who are of Arab or Muslim heritage. Although obtaining a presidential decree in some countries involves only a routine administrative procedure, the requirement does leave a great deal of discretionary power in the executive branch.

Similarly, some countries add requirements based on cultural assimilation, like knowledge of the national language .Ethiopia’s 1930 Nationality law though now repealed was the most extreme example, it required an applicant to “know [the] Amharic language perfectly, speaking and writing it fluently”; toady, the 2003 proclamation on Ethiopian Nationality requires only the ability to “communicate in any one of the languages of the nations/nationalities of the Country.” Egypt requires an applicant for naturalization to “be knowledgeable in Arabic.” Botswana requires a knowledge of Setswana or another language spoken by a “tribal community” in Botswana; Ghana requires knowledge of an indigenous Ghanaian language; and other countries have similar requirements. In practice, these laws are in some cases used to restrict citizenship on an ethnic basis.

Acquiring citizenship by naturalization may be very difficult even where the rules are not onerous on paper. In Sierra Leone, for example, citizenship by naturalization is in theory possible after an (already-long) 15-year legal residence period; in practice it is nearly impossible to obtain. According to available records, in the whole of Sierra Leone there are roughly a hundred naturalized citizens. In Madagascar, naturalization is very difficult to obtain for those not of ethnic Malagasy origin.

Among the groups most seriously affected by deficiencies in laws for naturalization are long-term refugee populations varies greatly, and many countries do not have laws that establish procedures for refugees to acquire permanent residence and citizenship. In Egypt, the case of the Palestinian refugees stands out. A 1959 decision by the Arab League that the Palestinian refugees should not be granted citizenship in their states of refuge has prevented them from integrating into the societies where they live. The Western Saharan refugees in Algeria face a similar political problem in finding any long-term resolution to their situation. Even countries that have recently adopted refugee laws and procedures stop short of drawing on international best practice when it comes to providing for naturalization of refugee populations. Even though the general law may theoretically provide a right to naturalization, this may not be available in practice, as in the case of Kenya.

There is, however, movement in some other countries toward allowing for the acquisition of citizenship by refugees. South Africa's law does, notably, provide for a transfer of status from refugee to permanent resident to naturalized citizen; though problems are reported in this process in practice. Tanzania has made generous provision for long-term refugees from Rwanda, Burundi, and Somalia to become citizens. The most effective implementation of states' obligations under international refugee law to promote national integration of refugees is by those states where the general naturalization law is generous, with only a short period of permanent residence required for naturalization and a functioning system to implement this rule. Senegal has provisions to the effect for refugees from neighbouring states. But these examples are too few and far between and leave too many refugees excluded.

2.5.2 Citizenship under colonial rule

As in other law, differences in the legal systems of the colonizers have influenced the principles that have been applied since independence, through both African and European states have since amended and modified the principles on which their nationality law was originally based. At the same time, the practical effect of colonization was to create new territorial units that were mostly not rooted in any preexisting state structures, and indeed often cut through territorial boundaries, splitting populations speaking the same language and sharing the same political

institutions. The colonizers also encouraged either deliberately or as a side effect of the pattern of economic development produced by membership of an empire migration both within Africa (as of mineworkers to South Africa) and from other continents to Africa including white Europeans also the South Africa, and from other continents to African (which includes white Europeans, south Asians brought to eastern and Southern regions of Africa by the British).

The territories of the British empire in Africa belonged to one of three categories. First established were the “colonies” (largely the coastal trading enclaves, including Lagos and Freetown); of these, South Africa later became a self-governing “dominion.” The remaining territories, including all those added in the late nineteenth century and dominions were part of the “crown dominion”; while “protectorates,” including most other British-controlled territories in African, were nominally foreign territory managed by local government structures established under British protection. Until 1948, when the first major reform of nationality law in British was adopted, the single status of “British subject” was applied to all those born in the British crown dominion (including the United Kingdom). However, birth in a protectorate did not, in general, confer British subject status. The British Nationality Act of 1948 established the new status of “citizen of the United Kingdom and colonies” (a status abolished in 1981), the national citizenship of the United Kingdom and those places which were at that time British

colonies or dominions. The status of “British protected person.” Also created by the new law and applied to persons born in a protectorate, provided some rights both in the protectorate concerned and in the UK but was a lesser status than citizenship of the

United Kingdom and colonies.⁶⁰ British protected persons were in general governed by the customary law of the territory concerned, as modified by statute and interpreted by the colonial courts; British subjects were governed by the common law also as modified by statute.⁶¹ At independence, most Commonwealth countries whose constitutions were drafted according to the standard “Lancaster House”⁶² template adopted rules that created three ways of becoming a citizen of the new state: some became citizens automatically; some became entitled to citizenship and could register as of right; while others who were potential citizens could apply to naturalize. Those who became citizens automatically were: firstly, persons born in the country at the date of independence who were at that time citizens of the United Kingdom and colonies or British protected persons; and secondly, persons born outside the country whose fathers became citizens in accordance with the other provisions; and secondly, persons born in the country whose parents were both outside the country were entitled to citizenship by way of

⁶⁰The term “British protected person” still exists, and confers some rights in the United Kingdom, but has a different legal meaning today

⁶¹See Laurie Fransman.*BRITISH NATIONALITY LAW*(2nd Ed), Butterworths, 1998, for an exhaustive discussion on British Nationality Law.

⁶²Lancaster House was the building in London where many of the constitutions were negotiated and finalized.

registration, as were others who were ordinary resident in the country. The laws were not gender neutral, and special provisions relating to married women were included, usually making them dependent on their husband's status.

2.5.3 Racial and Ethnic Discrimination

At least half a dozen countries effectively ensure that those from certain ethnic groups can never obtain nationality from birth; nor can their children or their children's children. At the most Liberia and Sierra Leone, both founded by freed slaves, take the position that only those "of Negro descent" can be citizens from birth.

2.5.4 Gender Discrimination

At independence and until recently, most countries in Africa discriminated on the basis of gender in the granting of citizenship. Women were unable to pass on their citizenship to their foreign spouses or to their children if the father was not a citizen. This situation has begun to change, as reform laws based on the international human rights consensus on women's rights have introduced gender neutrality in many countries. In recent years, Algeria, Botswana, Burkina Faso, Burundi, Cote d'Ivoire, Djibouti, Egypt, Ethiopia, Gambia, Kenya, Lesotho, Mali, Mauritius, Morocco, Niger, Rwanda, Senegal, Sierra Leone, Tunisia, Uganda, and other countries have enacted reforms providing for greater gender equality.

However, some recently adopted nationality laws have re-enacted discriminatory provisions, including those of Burundi and Swaziland.

2.5.5 Dual Citizenship

At independent, most African countries took the decision that dual citizenship should not be allowed. These “hyphenated” Africans, whose roots are both in an African country and a European or American one, have brought political pressure to bear on their “home” governments to change the rules on dual citizenship and concede that someone with two identities need not necessarily be disloyal to either state. In addition, there are increasing numbers of Africans with connections to two African countries and not only among ethnic groups living on the frontiers between two states who also wish to be able to carry the passports of both.

In recent years, many African states have changed their rules to allow dual citizenship or are in the process of considering such changes. Among those that have change the rules in the last decade or so are Angola, Burundi, Djibouti, Gabon, Gambia, Ghana, Kenya, Mozambique, Rwanda, Sao Tome and Principe, Sierra Leone, Sudan, and Uganda. Others Including Egypt, Eritrea, and South Africa, allow dual citizenship but only with the official permission of the government.

Today just under half of all African countries still prohibit dual citizenship on paper though in many cases the rules are not enforced, so that a citizen can acquire

another citizenship without facing adverse consequences in practice. Some African countries notably Ghana and Ethiopia have created an intermediate status for members of their diaspora, in addition to or instead of creating a right to dual nationality.

2.5.6 Citizenship Law in Africa Today

Most African countries like most countries in the world apply a compromiser in their laws governing citizenship between the two basic concepts known as *jus soli* (literally, law or right of the soil), whereby an individual obtains citizenship because he or she was born in a particular country, and *jus sanguinis* (law/right of blood), where citizenship is based on descent from those who are descended from individuals who have migrated from one place to another. An exclusive *jus soli* rule, on the other hand, would prevent individuals from claiming the citizenship of their parents if they had moved away from their “historical” home, but it is more inclusive of the actual residents of a particular territory. Two principles based on birth, two other factors are influential in citizenship determination for adults to wit; marital status, in that marriage to a citizen of another country can lead to the acquisition of the spouse’s citizenship, and long-term residence within a country’s borders. Today, citizenship in Africa countries is typically based on (i) birth in the country, usually with the requirement that at least one parent (in some cases still only the father) is a citizen (or was also born there); (ii) birth outside the country

when at least one parent (sometimes only the father) is a citizen (iii) marriage, where the spouse of a citizen automatically becomes a citizen or is entitled to register or opt for citizenship (in some cases, still only the wife of a male citizen); (iv) naturalization, based on length of residence and other qualifications such as knowledge of a national language and a clean criminal record; (v) an additional category of citizenship by registration or option (usually an easier process than naturalization) for citizens of countries with particular ties (usually African states), in case of marriage, or for children by adoption.⁵⁶ Some states are still using laws that were adopted at or soon after independence and have had little changed since; others have adopted a series of amendments to their existing laws most often to introduce partial or total gender equality sometimes leading to complex provisions that seem to contradict themselves and create corresponding difficulties in determining an individual's position.

2.6 History of Citizenship in Nigeria

In ordinary parlance, citizenship is often confused with nationality. Nationality is of course different from citizenship. Nationality is of a wider scope than citizenship. Nationality may in fact include persons who are not citizens. Indeed citizenship is a category of nationals. The British, for example, has three classes of nationals namely; (i) citizens of the United Kingdom and colonies; (ii) Commonwealth citizens; and (iii) British protected person. What is important to

note here that whatever classification that is made depends on the overall interest of the affected nation. For the present exercise, the Nigerian Constitution from the time of independence provides for some types of citizenship. However before the date of independence (1st day of October, 1960) we were all subject people under the British rule. Indeed there were no Nigerian citizens because that status was not constitutionally in existence. The Nigerian citizenship came into being in 1960 after independence.

Since 1979, there have been significant changes in the law relating to citizenship in Nigeria. These changes came with the enactment in that year of the Constitution of the Federal Republic of Nigeria 1979. The citizenship provision of the 1979 constitution have been slightly modified and re-enacted in 1989 constitution which came into effect in October 1 1992. It was the independence constitution that created for the 2nd time a Nigerian “Citizenship” Chapter Three of that Constitution which contained its citizenship provisions, prescribed the requirements for the acquisition and loss of Nigerian citizenship. It further established three modes for acquiring Nigerian citizenship which are by birth “by registration” and by naturalization. It also contained inter-alai provisions relating to dual citizenship as well as the power of parliament to legislate for the acquisition of citizenship by persons not already covered by the provisions of the constitution. A provision was also made for deprivation and renunciation of a person as Nigerian citizenship.

Pursuant to the enabling provision of the constitution parliament enacted the Nigeria citizenship Act 1960 which was subsequently amended by the Nigerian citizenship Act 1961.

During British colonial rule in Nigeria, the concept of Nigerian citizenship did not exist. The various territories now comprising Nigeria, being possessions of the British Crown, were under the suzerainty of the United Kingdom of Great Britain and Northern Ireland. The inhabitants of these territories were therefore either British subjects simpliciter in the Colony of Lagos or British protected persons in any other part of the territories that made up the Protectorate of Nigeria. Implicit in this political arrangement was the jurisdiction of the British Crown to legislate for Nigeria⁶³. In 1948 the legal status of the inhabitants of all British Nationality Act was enacted.⁶⁴ This Act was made applicable to Nigeria by an Imperial Order in Council.⁶⁵ However independence in 1960 led to the promulgation of the Nigeria (Constitution) order in Council, 1960 which had as its second schedule, the constitution of the Federation of Nigeria 1960⁶⁶.

Presently the provision of citizenship is contained in **Chapter Three** of the **Constitution of the Federal Republic of Nigeria 1999** (as amended). Section 25

⁶³B. ONwabueze. *A CONSTITUTIONAL HISTORY OF NIGERIA* 1982, 29 – 35

⁶⁴For details. See Clive Parry "NATIONALITY AND CITIZENSHIP LAW OF THE COMMONWEALTH AND THE REPUBLIC OF IRELAND 1957".

⁶⁵British Protectorate. Protected State and Protected Persons Order in Council 1949. S.I No 140 Laws of the Federation of Nigeria and Lagos... 1958 Volume xi

⁶⁶Laws of the Federation of Nigeria and Lagos, 1960, LN No. 159 (Independence constitution)

to **Section 32** makes provision for citizenship in Nigeria. These sections are discussed extensively in chapter three of this work.

CHAPTER THREE

CITIZENSHIP IN NIGERIA

This chapter deals with the issue of citizenship, fundamental human rights and the fundamental duties under the Nigerian Constitution of 1999 (as amended) and under any law enacted in force in Nigeria.

3.1 The Constitutional Provision of Citizenship in Nigeria.

Every country has the right to decide who will be its citizen. **Chapter three of the Constitution of the Federal Republic of Nigeria 1999 (as amended)** provides extensively for citizenship in Nigeria. A person shall become a Nigeria citizen by one of these three ways: (1) By birth, (2) by registration, (3) by naturalization.

3.1.1 Citizenship by Birth

This is provided for under **section 25 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**.

25(1)*The following persons are citizens of Nigeria by birth, namely:*

(a) every person born in Nigeria before the date of independence, either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria:

Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents was born in Nigeria;

(b) every person born in Nigeria after the date of independence either of whose parents or any of whose grandparents is a citizen of Nigeria: and

(c) every person born outside Nigeria either of whose parents is a citizen of Nigeria.

(2) In this section. "The date of independence" means the 1st day of October, 1960.

It therefore means from this section that a person is a Nigerian citizen by birth if:

(i) Both parents are Nigerians (ii) Either parents is a Nigerian (iii) Any or one of the grandparents is a Nigerian

The court decided in **Shugaba v. Minister of Internal Affairs**⁶⁷ where **Adefila J.** held: inter alia, that the deportation of the applicant was unconstitutional. Once a person proves that he is a Nigerian citizen, under the citizenship provision of the Nigerian Constitution, he cannot be deported from Nigeria.

3.1.2 Citizenship by Registration

26. (1) Subject to the provisions of section 28 of this Constitution, a person to whom the provisions of this section apply may be registered as a citizen of Nigeria, if the President is satisfied that -

- (a) he is a person of good character;*
 - (b) he has shown a clear intention of his desire to be domiciled in Nigeria; and*
 - (c) he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution.*
- (2) the provisions of this section shall apply to-*
- (a) any woman who is or has been married to a citizen of Nigeria; or*

⁶⁷Shugaba v. Minister of Internal Affairs (1981) INCLR. 459. Ahmed v. Minister Affairs (2002) 15 NWLR. Pt. 790 at.239 CA.

(b) every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigerian⁶⁸.

In other words a person can become a Nigerian citizen by registration. Citizenship of Nigeria by registration is open to:

1. A non-Nigerian woman who is married to a Nigerian; and
2. Every person of full age and capacity born outside Nigeria, any of whose grandparent is a citizen of Nigeria

To be qualified for Nigerian citizenship by registration, an intending foreigner must satisfy the President of Nigeria that:

- (a) He is a person of good character;
- (b) He has shown a clear intention of his desire to be domiciled or to live, or reside in Nigeria; and
- (c) He has taken the prescribed Oath of Allegiance to Nigeria contained in the Seventh Schedule to the 1999 Constitution.

3.1.3 Citizenship by Naturalization

- 27. (1) Subject to the provisions of section 28 of this Constitution, any person who is qualified in accordance with the provisions of this section may apply to the President for the grant of a certificate of naturalization.*
- (2) No person shall be qualified to apply for the grant of a certificate of naturalization, unless he satisfies the President that –*

⁶⁸The Constitution of Federal Republic of Nigeria 1999 (as amended)

- (a) he is a person of full age and capacity;***
- (b) he is a person of good character;***
- (c) he has shown a clear intention of his desire to be domiciled in Nigeria;***
- (d) he is, in the opinion of the Governor of the State where he is or he proposes to be resident, acceptable to the local community in which he is to live permanently, and has been assimilated into the way of life of Nigerians in that part of the Federation;***
- (e) he is a person who has made or is capable of making useful contribution to the advancement; progress and well-being of Nigeria;***
- (f) he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution; and***
- (g) he has, immediately preceding the date of his application, either-***
 - (i) resided in Nigeria for a continuous period of fifteen years; or***
 - (ii) resided in Nigeria continuously for a period of twelve months, and during the period of twenty years immediately preceding that period of twelve months has resided in Nigeria for periods amounting in the aggregate to not less than fifteen years.⁶⁹***

It is clear from this section and safe to interpret it that a person can become a Nigeria citizen by naturalization. Naturalization is becoming a legal citizen of a given country. In this sense, in Nigeria one can become a naturalized and a legal citizen of Nigeria by fulfilling the requirements as stipulated in section 27 of the 1999 Constitution. After this, a certificate of grant of citizenship by naturalization is issued to the person. This is the means by which any foreigner who has lived for a long time in Nigeria may become a Nigerian citizen.

⁶⁹ The Constitution of the Federal Republic of Nigeria 1999 (as amended)

3.2 Dual Citizenship.

28. (1) *Subject to the other provisions of this section, a person shall forfeit forthwith his Nigerian citizenship if, not being a citizen of Nigeria by birth, he acquires or retains the citizenship or nationality of a country, other than Nigeria, of which he is not a citizen by birth.*
- (2) *Any registration of a person as a citizen of Nigeria or the grant of a certificate of naturalization to a person who is a citizen of a country other than Nigeria at the time of such registration or grant shall, if he is not a citizen by birth of that other country, be conditional upon effective renunciation of the citizenship or nationality of that other country within a period of not more than five months from the date of such registration or grant.*

The Nigeria Constitution allows dual citizenship for a foreigner who is a citizen of another country by birth to also be a citizen of Nigeria, by registration or by naturalization. A citizen by birth can also acquire the citizenship of another country without renouncing his Nigerian citizenship. In the decided case of **Willie Ogbeide v. ArigbeOsula**⁷⁰ one of the issues before the court was whether a Citizen of Nigeria by birth will lose his Nigerian citizenship if he acquires citizenship or nationality of another country and will the dual citizenship be a ground to disqualify such a person from being a member of the National Assembly.

Adeniyi J.C.A noted that

‘...a citizen of this country by birth never loses his citizenship even when he holds dual citizenship of another country and cannot be disqualified from contesting election into the house of representatives for reasons only that he holds such dual citizenship. The lower tribunal therefore misled itself in that regard and the answer to issue No. 4 is that section 66(1) does not prohibit

⁷⁰Willie Ogbeide v. ArigbeOsula (2004) 12 NWLR PT886 at 138, Per Adeniji J.C.A (Pp 50-51) paragraph a-d

Nigerian citizens by birth from holding the citizenship of another country and from contesting election to be a member of the National Assembly'

Therefore, the constitution and consequently Nigerian law does not permit dual citizenship for a foreigner who is not a citizen of another country by birth. Nigerian citizenship required by a foreigner by way of registration, or naturalization may be lost, become void, or forfeited for instance in the following circumstances: if upon attaining the age of 21, or within 12 months of the coming into force of this constitutional provision the person:

1. Renounced Nigerian citizenship; or
2. Acquires the citizenship of any other country; or
3. If there is ineffective renunciation of the citizenship of any other country; acquired other than by birth.
4. Imprisonment for not less than three years.
5. Disloyalty to Nigeria by act or speech; and so forth.

3.3 Renunciation of Citizenship

- 29. (1) Any citizen of Nigeria of full age who wishes to renounce his Nigerian citizenship shall make a declaration in the prescribed manner for the renunciation.***
- (2) The President shall cause the declaration made under subsection (1) of this section to be registered and upon such registration, the person who made the declaration shall cease to be a citizen of Nigeria.***
- (3) The President may withhold the registration of any declaration made under subsection (1) of this section if-***
- (a) The declaration is made during any war in which Nigeria is physically involved; or***

- (b) in his opinion, it is otherwise contrary to public policy.*
- (4) For the purposes of subsection (1) of this section.*
- (a) "full age" means the age of eighteen years and above;*
- (b) any woman who is married shall be deemed to be of full age⁷¹*

The Nigerian Constitution permits a Nigerian to have dual citizenship, so that a Nigerian apart from being a citizen of Nigeria can acquire citizenship of another country. Furthermore, a citizen of Nigeria who is of full age has the right to renounce and abandon his Nigerian citizenship and take up the citizenship of any other country of his choice, by making the prescribed declaration to that effect. However, the President of Nigeria also has a right to refuse the registration of such declaration renouncing the citizenship, especially where such declaration was made;

1. when Nigeria is involved in a war; or
2. contrary to public policy

3.4 Loss of Citizenship.

This is also referred to as loss of nationality. It is the event of ceasing to be a citizen of a country under the nationality law of that country it is an umbrella term covering both voluntary and involuntary renunciation of citizenship⁷². **Section 30 of**

⁷¹The Constitution of Federal Republic of Nigeria 1999 (as amended)

⁷²In my humble view, section 30 The Constitution of Federal Republic of Nigeria 1999 (as amended) can be termed involuntary loss of citizenship. , while section 29 be termed voluntary loss of citizenship.

the Constitution of the Federal Republic of Nigeria 1999 (as amended) makes provision for this.

30. (1) The President may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, of his citizenship, if he is satisfied that such a person has, within a period of seven years after becoming naturalized, been sentenced to imprisonment for a term of not less than three years.

(2) The President shall deprive a person, other than a person who is citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of proceedings of a court of law or other tribunal or after due inquiry in accordance with regulations made by him, that -

- (a) The person has shown himself by act or speech to be disloyal towards the Federal Republic of Nigeria; or***
- (b) The person has, during any war in which Nigeria was engaged, unlawfully traded with the enemy or been engaged in or associated with any business that was in the opinion of the president carried on in such a manner as to assist the enemy of Nigeria in that war, or unlawfully communicated with such enemy to the detriment of or with intent to cause damage to the interest of Nigeria.***

The President of Nigeria may deprive a person who is not a Nigerian by birth, or by registration, of Nigerian citizenship in the following circumstances:

1. In the case of a Naturalized Citizenship, if he is sentenced to a term of imprisonment not less than 3 years within a period of 7 years after becoming a citizen of Nigeria by naturalization.
2. Persons who acquired Nigerian citizenship by naturalization or by registration may lose Nigeria citizenship if:
 - a. If the person is disloyal to Nigeria by act or speech: or

- b. if the person traded with, engaged, or associated with any business with an enemy country at war with Nigeria; or
- c. Assisted the enemy country at war with Nigeria in any manner; or
- d. Unlawfully communicated with such enemy country to the detriment of, or with the intention to cause damage to Nigeria.

Finally, the president has authority generally to make rules and regulations, not inconsistent with the constitutional provisions relating to issues of citizenship, and for carrying out such provisions. Thus, matters such as the manner of renunciation of citizenship are to be determined by him through regulation. Such regulations must be laid before the National Assembly for its information⁷³

At this stage it is pertinent to comment on the provisions of the Economic Community of West African States (**ECOWAS**) **treaty on movement of persons, goods and services**⁷⁴ which no doubt was made with the intention that it should have same effect as the European Union Charter on same subject. Free movement within national borders being the hallmark of citizenship. It is necessary to look at the effect of some of its provisions. **Article 27** of the treaty enjoins member state to; by agreement with each other, exempt “community citizens” (citizens of member states) from holding visas and residence permit, and to allow them to work and engage in commercial and industrial activities freely.

⁷³ Section 32(1)(2) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

⁷⁴ ECOWAS TREATY Signed on 28th May 1975 in Lagos.

Since this was subject to bilateral agreements among members state, it was later thought that a multi-lateral arrangement was better: to prevent duplication of efforts and delay. Thus, the eventual protocol provides in section 2 that all community citizens “shall have the right to enter, reside and establish in the territory of members states.” The provisions for the implementation of free movement within the ECOWAS territory can generally be found in the protocol and directive of the authority of the heads of state and government on the implementation of the protocol, which is binding on all institutions of ECOWAS community, citizens can enter member state without visa through the official entry point for ninety days. Thereafter, the authorized immigration authorities must grant and extension of stay.

However, such ECOWAS citizen must comply with Section 11 (a – e) of the Immigration (Control of Aliens) Regulation of the Nigerian Immigration Act 2004 which makes provision for restriction of alien’s movement generally. Particularly Section 11 (c) provides that an alien in Nigeria should obtain the permission of an immigration officer in the district where he resides in respect of a journey the immigrants desires to undertake which may exceed 30 miles.⁷⁵

It is obvious from **Section 2** of the **ECOWAS Treaty on movement of persons, goods and service** as stated above, that the intention of the protocol is not to create

⁷⁵ In the Immigration Act No. 8 2015 section 112(1)(2) gives the Minister powers to make regulations for the control of immigrant residence in Nigeria. Section 115 thereof does not invalidate section 11 of the immigration Act 2004

another class of citizens in the region, but to merely ensure some measure of movement and residential rights to community citizens. This therefore, should not be seen as an addition to the manner of acquisition of citizenship under the Nigerian constitution.

3.5. Rights of Citizens in Nigeria.

This is also this is also known as the fundamental rights of individuals in a country. Contained in Chapter Four, sections 33 to 44 of the Constitution of the Federal Republic of Nigeria 1999 (as amended):

1. Right to Life

33. (1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section 1, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary -

(a) For the defence of any person from unlawful violence or for the defence of property:

(b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or

(c) For the purpose of suppressing a riot, insurrection or mutiny.⁷⁶

This constitution provides for fundamental rights just like all previous Nigerian Constitution. This Constitution contains a total of sixteen fundamental rights. Under the Constitution a person has right to life. Therefore, right to life is not to be

⁷⁶The Constitution of Federal Republic of Nigeria 1999 (as amended)

deprived unless after the due process of law and in the execution of the sentence of a court for a criminal offense for which the person has been found guilty in Nigeria.

However, there is no contravention of right to life, if a person dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary for the:

1. defense of any person from unlawful violence; or
2. defense of property; or
3. to effect a lawful arrest; or
4. to prevent the escape of a person lawfully detained; or
5. purpose of suppressing a riot; or
6. purpose of suppressing insurrection; or
7. purpose of suppressing mutiny.

2. Right to Dignity of Human Person

34. (1) Every individual is entitled to respect for the dignity of his person, and accordingly –⁷⁷

- (a) No person shall be subject to torture or to inhuman or degrading treatment;***
 - (b) No person shall be held in slavery or servitude; and***
 - (c) No person shall be required to perform forced or compulsory labour.***
- (2) For the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include -***
- (a) Any labour required in consequence of the sentence or order of a court;***
 - (b) Any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;***

⁷⁷Ibid

- (c) *In the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;*
- (d) *Any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or*
- (e) *Any labour or service that forms part of -*
 - (i) *Normal communal or other civic obligations of the wellbeing of the community.*
 - (ii) *Such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or*
 - (iii) *Such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.*

Under the Nigerian Constitution a person is entitled to right to dignity of human person. Accordingly a person shall not be subjected, for instance to:

1. Any form of torture
2. Any form of inhumanity
3. Any form of degrading treatment
4. Slavery
5. Servitude
6. Forced or Compulsory labour etc.

However, ‘force or compulsory labour’ does not include;

1. Any labor required in consequence of the sentence or order of a court, for instance, a sentence to a term of imprisonment with hard labor or community service and so forth as court may impose.
2. Any labour, required of the armed forces.

3. Any labour required of the people which is reasonably necessary in the event of any emergency or calamity threatening the life or the well-being of a community.
4. Any labour or service that forms part of the normal communal or other civil obligations for the well-being of the community.
5. Compulsory national services in the armed forces as may be prescribed by an Act of the National Assembly; and
6. Service under the National Youth Service Corps Programme (NYSC)
7. Any labour or service rendered in respect of environmental sanitation for the purpose of keeping the environment clean.

3. Right to Personal Liberty

35-(1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.⁷⁸

Under the Nigerian Constitution every person is entitled to his or her personal liberty. The word “**liberty**” in this context goes beyond freedom from any form of imprisonment. Liberty is a very wide term and includes every civil right.

However, in the narrow sense in which it is used in this provision, personal liberty means right to freedom from wrongful or false imprisonment, arrest, or any physical restraint whether in any common prison, or even in the open street

⁷⁸Constitution of the Federal Republic of Nigeria 1999 (as amended)

without legal justification. In the words of **Prof. Albert Venn Dicey** personal liberty is:

‘The right not to be subjected to imprisonment, arrest, and any other physical coercion, in any manner that does not admit of legal justification’

The personal liberty of a person may be contravened only in the exceptions provided in section 36 (1) – (9) of the 1999 Constitution which grounds include:

1. Imprisonment in execution of a sentence of court imposing a term of imprisonment for a criminal offence which the person has been found guilty.
2. Contempt of court or other failure to comply with an obligation imposed by law.
3. A lawful arrest upon reasonable suspicion of having committed a criminal offence; or to prevent commission of an offence, subject to the right to be released on bail as provided by law.
4. For the purpose of the education, or welfare of young persons who have not attained the age of 18 years.
5. For the purpose of the care or treatment of persons suffering from contagious disease, unsound mind, drug addicts and vagrants or for the protection of society from such persons
6. For the purpose of preventing unlawful entry into Nigeria, expulsion or extradition.

4. Right to Fair Hearing;

Section 36.(1)⁷⁹ *In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its Independence and impartiality.*

Every person is entitled to fair hearing otherwise known as natural justice or the due process of law, in the determination of his rights or obligations in any civil or criminal proceedings before a lawfully constituted court or tribunal, as stipulated by the constitution.

The requirements or elements of the right to fair Hearing as provided in the Nigerian Constitution may be summarized as follows:

1. A speedy hearing within a reasonable time. Justice delayed is justice denied; on the other hand, a hasty trial without the due process of law is also justice denied.
2. A court or tribunal established by law
3. An independent court or tribunal
4. An impartial court or tribunal
5. The fair hearing of the parties to the suit or proceedings

⁷⁹ Ibid

6. The duty of the judge not be to a judge in his own case unless in the exceptions provided by law, such as, punishment of contempt committed in the face of a court;
7. In criminal matters, a presumption of innocence until the person is proved guilty beyond reasonable doubt, except where the burden of proof is on the accused person, as provided in the Evidence Act.
8. Prompt information in the language he understands, the nature and details of his offence.
9. Provision of adequate time and facilities for the preparation of his defence.
10. Opportunity to defend himself in person or by a legal practitioner of his choice.
11. Opportunity to examine in person or by his legal practitioner, the witnesses called by the prosecution, or the other party.
12. Opportunity to obtain the attendance of his witness to testify on his behalf in court on the same conditions applying to witnesses called by the prosecution.
13. To have without payment, the assistance of an interpreter if he cannot understand the language used at the trial.
14. The keeping of the records of the proceedings by court.

15. Delivery of judgment within 90 days of the close of evidence by both parties.
16. Delivery of the Right to obtain copies of the judgment in the case within 7 days of the judgment.
17. Right not to be tried under retroactive or retrospective laws, that is, laws which are backdated, either to make an act or omission a crime or to impose a heavier punishment.
18. Trial before a court of competent jurisdiction.
19. Trial by court properly constituted in terms of the qualification of the judge(s) or quorum, where relevant.
20. Right not to be tried twice for the same offence, except with the order of a superior court. This is the rule against double jeopardy. This does not include the bringing of proper charge, or the amendment of a charge where an earlier charge is wrong. However, it does not affect the right of a plaintiff to bring a civil claim in tort, where criminal proceeding has been brought by the police or state in respect of the criminal aspect.
21. Right not to be compelled to give evidence in one's own trial
22. Right to trial in public or in open court, as opposed to secret trial unless within the exceptions permitted by the Constitution. This is so because secrecy in itself raises the presumption of impropriety and injustice.

5. Right to Private and Family Life

37. The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected⁸⁰.

Every person has right to private and family life. Therefore the privacy of a person's home, correspondence, telephone conversation, telegraphic and other forms of communication must not be invaded without lawful justification and according to law. Where one person or public authority trespasses or invade the privacy of the home of an individual, such individual may be entitled to sue for trespass.

On the other hand, however, public personalities are public property. Thus, they are often in the news and the details of their private lives are discussed by the press. So long as the publication is not defamatory, or it is true or there is some other defense, the press is usually free to make such publications. Often times, such press publicity is good promotion for the image and business of these public personalities. Some of them simply love and will always want to be in the limelight than to be forgotten by the people, which may happen, such as, when the press embarks on an embargo on the publicity of any public personality.

6. Right to Freedom of Thought, Conscience and Religion

⁸⁰The Constitution of the Federal Republic of Nigeria (as amended)

38. (1) *Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.*

The Nigerian Constitution guarantees the right to freedom of thought, conscience and religion. A person is therefore free to believe, or change his religion, and alone or in community with others, and in private or in public manifest and propagate his religion, or worship, teach and practice his religion.

Under the Constitution, a person has the right to freedom of thought, conscience and religion. In a multi-religious country like Nigeria, the need for this freedom cannot be overstressed. The people of Nigeria are multi-religion, but the government machinery, organization, or institution is secular. Section 10 of the Constitution prohibits government from adopting a state religion.

7. Right to Freedom of Expression and the Press

Section 39.(1) *Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.*

The Nigerian Constitution guarantees freedom of expression to every individual and the press. A person therefore has freedom to hold opinions as he will, and to receive, and impart ideas and information without interference. A person shall

within the provisions of any Act enacted by the National Assembly be free to own, establish and operate any medium for the dissemination of information, ideas and opinions.

In **Archbishop Okogie v. A.G. Lagos State**⁸¹ and in **Adewole&Orsv.Jakande**⁸² the courts held: that the word “media” is not limited to the press, but includes any medium for imparting and receiving information and it includes schools and that the right of freedom of expression and the press includes the right to own a private school to receive and impart ideas and information without interference. The Right to liberty of expression and the press means two broad things:

1. Right to freedom from prior censorship or restraint of publication
2. But not freedom from legal consequences of an unlawful, criminal, mischievous or defamatory publication.

In the words of the eminent English jurist **Sir William Blackstone** (1723 – 1780)⁸³ *‘The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publication, and not in freedom from censure for criminal matter when published. Everyman has an undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the Press: but if he publishes what is improper, mischievous, or illegal, he must face the consequences of histemerity’*

Again if this section is interpreted in the ordinary meaning it means that the Bill entitled **“AN ACT TO PROHIBIT FRIVOLOUS PETITION AND OTHER**

⁸¹ (1981) INCLR 2181) 337 CA

⁸² (1981) INCLR 262

⁸³ Blackstone commentaries vol. 4 p. 151 - 152

MATTERS CONNECTED THEREWITH” proposed by the deputy senate leader senator **BALAI BNNA’ALLAH** in December 2015 which was being read for the second time in the house of assembly is a violation of this section. The bill is meant to protect the right and freedom of a ***person*** against abuse as a result of any petition or statement submitted against that person without a duly sworn affidavit supporting the petition or statement. The word ***person*** as used in the bill is clearly meant to protect public officers from frivolous petitions. In my opinion this bill is for the protection of the legislators and to prevent individuals sponsoring frivolous petitions to tarnish or black mail public servants or political office holders for selfish purposes.

It is interesting to note that the Senate President Bukola Saraki has assured Nigerians that such legislation will not be endorsed. The right to freedom of expression and the press as guaranteed in the constitution is prima facie sufficient to protect the press.⁸⁴

Comparatively, though in the United States press freedom is provided in absolute in words to the effect that “***Congress shall make no law abridging the freedom of the Press.***”⁸⁵ Yet in practice and in reality there are statutory enactments which limit press freedom. Thus, the constitutional provision whilst permitting free

⁸⁴ See TODAY. 7th May 2016 Lagos, <https://www.today.ng>

⁸⁵ The First Amendment to the US in force DE. 15, 1791

speech does not provide immunity for every possible use of language. In **Frohwerk v. US**⁸⁶. The Supreme Court of the United States said:

‘We venture to believe that neither Hamilton, nor Madison, nor any other competent person then or later even supposed that to make criminal the counseling of murder with the jurisdiction of Congress would be an “unconstitutional interference with free speech”

Ordinarily though by ethics of profession a journalist is not to disclose his source of information, however, under the constitution, disclosure may be required in the interest of the State, such as, in the interest defense, public safety, public order and so forth. Where a journalist is required to disclose his source of information in the interest of the State, he withholds such information at his own risk.

8. Right to Peaceful Assembly and Association

40. Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests:

Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution on the Independent National Electoral Commission with respect to political parties to which that Commission does not accord recognition.

Every person is entitled to peacefully assembly and associate with other persons to pursue, protect and advance lawful interest and objectives. A person may therefore form or belong to any:

- i. Political party

⁸⁶(1919) 249 US 204

- ii. Trade union; or
- iii. Any other association, be it political, social, or economic, in the pursuance of lawful interests.

9. Right to Freedom of Movement

Section 41 provides (1) *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 thereby or exit there from.*

- (2) *Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society-***
 - (a) *imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or***
 - (b) *Providing for the removal of any person from Nigeria to any other country to:-***
 - (i) *Be tried outside Nigeria for any criminal offence, or***
 - (ii) *Undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty:***

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.⁸⁷

The constitution guarantees to every Nigerian citizen freedom to move freely to anywhere and to live in any part of the country he wishes. Based on this constitutional right, no citizen of Nigeria shall be:

- i. Expelled from Nigeria
- ii. Refused entry into Nigeria; nor
- iii. Refused exit from Nigeria; such as by seizing his passport.

⁸⁷ A.G Fed v. Ajayi (2000) 12 NWLR Pt 682 p.509 C.A (1919) 249 US 204

However, there are exceptions to the right to freedom of movement. Therefore, a law that is reasonably justifiable in a democratic society may impose restrictions on the residence or movement of:

1. An accused whom have being found guilty and sentenced of a criminal offence.
2. A person who has committed a crime, in order to prevent him from escaping or leaving Nigeria
3. A person reasonably suspected to have committed a criminal offence in order to prevent him from escaping or leaving Nigeria.
4. In order to remove any person from Nigeria to any other country to be tried outside Nigeria for any criminal offence; or to undergo imprisonment outside Nigeria in execution of a sentence of court of law.

10. Right to Freedom From Discrimination

Section 42 provides. (1) *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 by, 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, religions 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 groups, places of origin, sex, religions or political opinions.

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

(3) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body, corporate established directly by any law in force in Nigeria.⁸⁸

The Constitution provides for right to freedom from discrimination, for whatsoever reason, for instance, on ground of a person's:

1. Community
2. Ethnicity
3. Place of origin
4. Circumstance of birth
5. Sex
6. Religion

⁸⁸Shugaba. v. Minister of Internal Affairs (1981) 2 NCLR 459, DIRECTOR SSS . v. AGBAKOBA (1999) 3N WIRPt 595.p. 314 sc, African Charter on Human and People's Rights. Article 2 and 19, UN Treaty Series, vol 660 page 195, Universal Declaration of Human and Peoples' Right, Fundamental Right (Enforcement Procedure) Rules 3, 2009,

7. Political opinion, and so forth

Therefore a Nigerian citizen shall not be subjected to discrimination, but shall be accorded equal treatment with others irrespective of whether the person is a man or a woman. **In the case of Philips v. Martin Marretta Corporation:**⁸⁹

A company regulation which denied employment to women with pre-school age children was held to be unconstitutional and invalid for being discriminatory against women with infant children.

11. Right to Acquire and Own Immovable Property Anywhere in Nigeria

Section 43 provides, *Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.*⁹⁰

It is also necessary to state here that a citizen can also own moveable property anywhere in Nigeria.

⁸⁹ 400 US 542 (1917)

⁹⁰ Orianwo . v. Okene (2002) 14 NWLR P +786 p. 157 sc, LACOED . v. Edun (2004) 6NWLR pt 870. P 476CA

12. Compulsory Acquisition of Property

Section 44 provides, (1) No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things

-

(a) Requires the prompt payment of compensation therefore and The Nigerian Constitution provides that government shall not compulsory acquire the movable or immovable property of any person for public purposes or public use in any part of Nigeria, except in the manner and for the purpose prescribed by a law.

Therefore, confiscating property from one private individual and granting it to another individual is not acquisition for public purpose under the provisions of the Nigerian Constitution. However, any law that empowers the State to acquire private property for public purpose must also provide for:

1. The prompt payment of adequate compensation therefore⁹¹; and
2. Give to any person claiming such compensation, right of access to a court of law or tribunal or body having jurisdiction over such matter in that part of Nigeria for the determination of his interest in the property and the amount of compensation. The instances and exceptions where interest in or right to property may be temporarily interfered with or lost under general law are listed in sub-section 2 of this section.

13. Restriction and Derogation From Fundamental Rights

45. (1) Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society

(a) in the interest of defense, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedom of other persons.⁹²

⁹¹Gov. of Lagos State. V. Ojukwu (1986) 1 NWLR p + 18 p. 621 SC.

Though the despite this constitution guarantees fundamental rights on one hand, on the other hand, it hereby provides for restrictions on fundamental rights and grounds on which it can take away, derogate, or limit the exercise of fundamental rights in the interests of the State by laws which are reasonably justifiable in a democratic society on the grounds of:

1. Defence
2. Public safety
3. Public order
4. Public morality
5. Public health: or
6. For the purpose of protecting the rights and freedom of other persons.

Any person who alleges that his fundamental right as granted in the constitution has been, is being, or is likely to be contravened in any part of Nigeria, may apply to a Court for redress, that is:

1. The Federal High Court, of
2. The High Court of a State.

⁹² The Constitution of the Federal Republic of Nigeria 1999 (As amended)

3.6 Duties of a Citizen.

So far the rights of a citizen have been discussed, below are the duties of a citizen. These are contained in **Section 24 of The Constitution of the Federal Republic of Nigeria 1999 (as amended)**. It provides as follows:

It shall be the duty of every citizen to -

- (a) Abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate authorities;*
- (b) Help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;*
- (c) Respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood;*
- (d) Make positive and useful contribution to the advancement, progress and well-being of the community where he resides;*
- (e) Render assistance to appropriate and lawful agencies in the maintenance of law and order; and*
- (f) Declare his income honestly to appropriate and lawful agencies and pay his tax promptly.*

Other duties include voting at election, prevention of crime⁹³.

A citizen enjoys many rights in his country. He enjoys full social, economic, political, constitutional, and legal rights and the protection of the law. He is entitled to take part in the political process, and vote and be voted for according to law. He has right to live in his country make his country his permanent place of residence, seek employment, trade and otherwise legally earn his living. A citizen enjoys all the fundamental rights in the constitution. The rights of a citizen can

⁹³Section 330 Criminal Procedure Code. Chapter C42 Laws of the Federation of Nigeria 2004.

only be restricted or denied according to law and the constitution. A democratic government, a bill of rights, an independent and impartial judiciary, a free and fearless press, peace and order and a good economy, are necessary factors for the full enjoyment and protection of the rights of a citizen.

Similarly, a citizen owes many duties or obligations to his country which includes the duty to be loyal and honest and respect his country and its symbol such as the name, national anthem and flag, be law abiding, respect the rights and properties of other persons, care for public property etc which have been discussed above.

Finally, any person who alleges that his fundamental rights as guaranteed in the constitution has been, is being, or is likely to be contravened in any part of Nigeria, may apply to a High Court for redress.

CHAPTER FOUR

IMMIGRATION IN NIGERIA

4.1 Definition of Immigration and Immigrants

Immigration is the movement of non-native people into a country in order to settle there. It is the fact or process of people coming into a country in order to live there.

Immigration is the movement of people into a destination country which they are not natives of or where they do not possess citizenship in order to settle or reside there, especially as permanent residents or naturalized citizens or to take up employment as a migrant worker or temporarily as a foreign worker.⁹⁴ It is a process in which people enter into a country in order to live there.

When people cross national borders during migration they are called migrant or immigrants. In 2013, the United Nation estimated that there were Two Hundred and Thirty One Million, Five Hundred and Twenty Two Thousand, Two Hundred and fifteen (231,522,215) immigrants in the world (approximately 3.25% of the global population)⁹⁵

⁹⁴The truth about Asylum. Who's who: Refugee, Asylum Seeker, Refused Asylum Seeker, Economic Migrant
London, England: Refugee Council

⁹⁵Datablog/2013/Sep/11/ on the move 232- million –migrants in the world

Section 116 of the Immigration Act 2015⁹⁶ defines an immigrants as follows
“any person who is not a Nigerian citizen, or persons accorded immunity by reasons of diplomatic status who enters or seeks to enter Nigeria.”

4.2 The Administration and control of Immigration in Nigeria

The principal legislation governing immigration practice in Nigeria is the **Immigrant Act No 82015**. This ACT repealed **The Immigration Act CAP II LFN 2004**. It provides the legal and regulatory framework for the entry and departure of persons into or out of Nigeria, usually for economic and social reasons.⁹⁷ The Act controls the Immigration of expatriate into Nigeria and provides for the grants of relevant entry permit as stipulated in the Act. The Administration of the immigration Act fall within the Jurisdiction of the federal Ministry of interior, with support provided by the Nigerian Investment Promotion Commission and other related government agencies (for example the Corporate Affairs Commission, Nigerian Drug law Enforcement Agency etc). Moreover, the Nigeria Immigration service which is an agency under the federal Ministry of Interior, is the main government agency charged with the responsibility of regulating and approving the immigration and emigration of expatriates and granting visa and entry permits into Nigeria. The Citizens and Business Department of the Ministry of Interior is the

⁹⁶ Immigration Act 2015 No 8

⁹⁷ Ibid Section 2

body responsible for granting establishment quota and other relevant permits for the purpose of entry into, doing business in and residence in Nigeria.

The Immigration Act⁹⁸ classifies the purpose of entry into Nigeria under the following classes

- (a) Entry for visitation purpose which is applicable to those seeking to enter the country for non-business purposes.
- (b) Entry by officials of foreign governments and recognized international organizations.
- (c) Entry for employment in the public sector
- (d) Entry for employment in the private or for business purpose.⁹⁹
- (e) Entry for the purpose of landing in Nigeria
- (f) Entry under any technical aid scheme¹⁰⁰
- (g) Entry for the purpose of residence¹⁰¹

As a corollary to the above stated classes of entry into Nigeria, the Immigration Act provides for the issuance of the following classes of visas to qualified applicants.

1. Ordinary Visa which is made up of Transit visa, single journey visa and multiply journey visa.

⁹⁸ Section 36 of Immigration Act No. 8 2015

⁹⁹ Section 20(4)(b)(c)(ii)(iii)(iv)(v)(vi)(ix) Immigration Act No. 8 2015

¹⁰⁰ Section 20(4)(d) Immigration Act No. 8 2015

¹⁰¹ Section 37 Immigration Act No. 8 2015

2. Tourist visa
3. Official visa or Diplomatic visa
4. Business visa
5. Subject to Regularization (STR) visa¹⁰²

4.3 Categories of Immigrants in Nigeria

1. Refugees / Asylum-seekers: In 2000 and 2005 refugees formed a very small and decreasing percentage of the stock of immigrants (0.9 and 0.8%) respectively. The figures for new asylum applications are low in Nigeria, in 2008; it was a total of 1,218. Some from great lakes Regions of Africa, some from Democratic Republic of Congo¹⁰³ There was a slight increase to 1239 in the year 2014.
2. Labour Migrants: Many immigrants are labour migrants. Professional / technical and related workers, administrative and managerial workers, production / transport and related workers. Foreigners from ECOWAS countries also formed part of immigrants. Some of these expatriate professionals work in the health sector, partially filling the gaps created by emigration of Nigerian doctors and nurses abroad.

Immigrants can also be classified as (a) legal (b) Illegal immigrants.

¹⁰² This type of visa is issued to persons who do not qualify for diplomatic visa, but who are foreign government official travelling on official business.

¹⁰³ "MIGRATION IN NIGERIA. A COUNTRY PROFILE 2009" International Organisation for Migration 2009 by AdejumokeAfolayan and 10m's Research division

(a) Legal Immigrants: Legal Immigrants are persons or foreigners who are within the territory of Nigeria in compliance with the laws of the land and the provisions of the relevant Nigerian laws regulating entry, residence and establishment.

(b) Illegal Immigrants: Illegal Immigrants in Nigeria is any person who enters and resides in Nigeria in contravention of the said rules of the country. The term illegal immigrant is not defined in the Act but it means a person who is not a lawful immigrant. These illegal immigrants' are persons who have entered the country illegally in contravention or violation of immigration laws or treaty rules, or their residence or stay in the country is illegal. For instance, **Section 17 of the Immigration Act No. 8 2015** provides for the production of travel documents by every passenger entering or living Nigeria by any means to immigration officer. It is interesting to note that the consent of the minister of interior is also necessary. In effect anyone who fails to produce a valid document and obtain consent from the minister, is an illegal immigrant. Any person who fails to comply with **Sec37(3)** of the Act by not showing any evidence of immigration responsibility or any security to the Comptroller General of Nigeria Immigration Services is an illegal immigrant. Again immigrants who enter Nigeria through the unofficial routes are illegal immigrants. Those who over stay their visas are also illegal

immigrants. Many ECOWAS citizens overstay the 90 days of grace without regularizing their stay.¹⁰⁴

4.4 Reasons for Immigration

The total number of foreigners in a country at a particular time forms the stock of immigrants. The reason why people immigrate is a very complicated question with many facts. The list below is far from complete but these are a few reasons people chose to immigrate. I shall classify the reasons under two categories.

- (a) Voluntary: Includes; for study, employment, trade investment, high standard of living, marriage.
- (b) Involuntary: Includes; refugees, seekers and asylum seekers

Voluntary Reasons

1. Education/Study: Education opportunities are different in countries. Some people move to other countries for better educational opportunities which are not available or even easily obtainable in their own countries.
2. Employment and job opportunity: People immigrate with the knowledge or hope that more and better opportunities will be available to them in their particular field than at home. Others migrate after employment has already been offered to them.

¹⁰⁴Ibid.

3. Higher Standard of living: people move to other country to escape poverty. People want to meet up with the economic situation of the world which is pressing today. Foreigners move to a new country where they think they can earn a better salary. They need to move to another country to seek and secure their financial future. In a country like India for example; government jobs are plentiful and tax-free. People immigrate to gain financial stability and better future prospects.
4. Marriage: This is another reason why people immigrate into a foreign country.
5. Political Reason: People immigrate to maintain a global presence amongst various countries; people feel that they are not decked with ample political freedom, so they immigrate to other countries in search of the same. Some people change their citizenship to obtain a new identity either for political rights or for a better living.
6. Weather: It is important to consider this as a factor why people immigrate. People want to escape the weather conditions of their country or move to a place where the weather suits their lifestyle and feel better. People want to get away from extreme weather condition like regular earth quake, cyclones, tornadoes or even active volcanoes.

7. Retirement: Many people immigrate to a new country when they retire, some countries like Britain, US who look after their retired, persons may migrate to such countries if their own countries don't look after the Retired. Health Service might be cheaper, free or better in a different country for the retired and they may be simply offered a better lifestyle as a retired person if they move to such countries. Free transportation and free welfare package may also be available to such retirees in foreign countries compared to their own country.
8. Again cost of living which may be too high in some countries may make people want to change to a new country and move away from their own country.
9. Services: People immigrate to foreign countries because the services offered in their home country are not satisfactory. Service delivery is a big problem in the developing world and this is generally a much smaller problem (if at all) in developed countries. People want to leave a country where there are no place for waste and rubbish. Where any part of the road is used as a dumping site. Where there are no refuse or sewage system in function. Causing all forms of health hazards to the citizens of the country. The

country which they are immigrating to will most likely offer better service.¹⁰⁵

Involuntary Reasons

1. To escape conflict, violence or war: Individuals who immigrate to escape conflicts like war and violence. These can be considered for refugee status or asylum.¹⁰⁶ when countries go to war innocent people are caught in chaos, sometimes the only way to survive is to flee and leave the country and live somewhere else.
2. To find refuge after being displaced due to environmental factors.
Natural disasters, erosion and other environmental factors caused by climate change are real threats that affect people. Famine, disease and natural disaster like flood can devastate a nation and force the inhabitants to migrate to another country (for instance the Ebola epidemic that became alarming in Liberia and Sudan hunger strike)
3. Government Policies: Government implements policies, which are unjust and bigoted. Sometimes a particular group of people may be singled out for unjust treatment and oppression. (Xenophobia incidence in South Africa in 2014). They could be denied basic rights or freedom or even physically

¹⁰⁵ Reason people decide to move to another country. <https://blog.riamoneytransfer.com>

¹⁰⁶ Christina Nunez "WHY PEOPLE MIGRATE" <https://www.globacitizen.org> GLOBAL CITIZEN

harmed. Just because of identity or race or colour. Or they simply ignore when the rest of the population mistreats them. This is called persecution and victims of persecutions are likely to move to nation where the government won't mistreat them. Thus people move to another country to escape past or future persecution, based on religion, nationality or membership in a particular social group or political opinion.

4.5 Procedures for Acquiring Citizenship in Nigeria by Immigrants

Chapter 3, Section 25-27 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides for the modes of acquiring citizenship in Nigeria. This section provides the method or manner in which an individual can become a citizen of Nigeria. It should be noted that the mode of acquiring citizenship in a country differ from one country to another. The modes of acquiring citizenship in Nigeria includes: (a) by birth (b) by registration (c) by naturalization. These procedures have been discussed in chapter three of this work.

Naturalized Citizens involves person in Nigeria who acquires their citizenship through legal or constitutional means in most cases they are foreigners. An individual is said to have acquired this type of citizenship by either adoption or registration or naturalization. That is to say, such citizen is an alien or foreigner

who for certain reason(s) decides to become the citizen of another state by fulfilling the conditions laid down by the state. However, such persons who acquire citizenship by this means have an advantage and disadvantage. The advantage includes:

1. He becomes a legal member of the state
2. He is entitled to legal protection and access to the courts of law
3. He is protected from internal and external invasions.
4. He enjoys civil & social rights that is the right or equality before the law, the right to own private property, the right to live the life of the civilized being according to the standards prevailing in the country's constitution.

The disadvantage of naturalized citizenship includes:

1. Such citizens is expected to fulfill certain conditions or pass through certain formalities before he can be classified to be a naturalized citizen.
2. A naturalized citizen within 10 years of registration or a grant of certificate of naturalization is debarred by law from elective or appointive office.¹⁰⁷
3. This kind of citizenship can be revoked.

¹⁰⁷Section 307 of Constitution of the Federal Republic of Nigeria 1999 (as amended)

4.6 Rights of Immigrant

When any immigrants have being admitted into Nigeria, they are entitled to certain rights necessary for the enjoyment of their private life. They in turn are obliged to the host country, in which they have being admitted to perform some obligations or duties. The nature and scope of these rights are provided for in the laws of the host country. **In Nigeria the Constitution of the Federal Republic of Nigeria 1999 as amended** guarantees certain fundamental rights to all persons in Nigeria. The rights and duties of various classes of immigrant is discussed below.

1. Citizens of ECOWAS States: Citizens of ECOWAS state are persons who are nationals of countries, of which countries are members of **ECONOMIC COMMUNITY OF WEST AFRICAN STATES**. The Countries that form ECOWAS were countries that are parties and have signed the treaty of the ECOWAS in **May 1975 in Lagos. Article 59** of the revised ECOWAS treaty provides that citizens of the ECOWAS community shall have the “right of entry, residence and establishment” and the member states undertake to recognize these rights of community citizens in their territories in accordance with the provisions of the relevant protocols.

Thus ECOWAS members also have some immigration facilities available to them which includes;

(a) Right to free entry into member countries within 90 days. All nationals that are signatories to ECOWAS treaty are allowed 90 days free entry for any given period into Nigeria. ECOWAS citizens under the community agreement have, the right to enter Nigeria free of visa requirements provided that on entering citizens possess their passport or ECOWAS travel documents and international health certificates, and of course entering through authorized entry ports. The right is contained in the **1979 and 1985** Protocols, which were annexed to Treaty and subsequently became part of it.

(b) Right to Residence. Every qualified ECOWAS national can be granted a right to reside in Nigeria for such period of time. Up to 5 years as the controller of immigration may grant. This facility is granted for an initial period of twelve months subject to multiple extensions.

(c) Right of employment. ECOWAS citizens have the right to reside and take up jobs effectively offered in Nigeria, provided that such citizens obtain the ECOWAS residence card or permit. Upon residence and employment, they shall enjoy equal treatment with nationals of Nigeria in matters enumerated under **Article 23 (1)** of the Protocol.

Again the immigration Act also provides some protection for other classes of immigrants, like citizens of non ECOWAS states and Expatriates (non-Africans)

entering Nigeria. **Section 14(2)(b) of the Immigration Act No8 2015** provides that *nothing in this section shall be construed to (b) impose any restriction or liability under this act as to entry, repatriation or deportation in respect of persons who satisfy an immigration officer that they are entitled under any rule of law or enactment, to immunity from suit or legal process not being immunity in respect only on things done or omitted to be done in the course of their duties, and complete any other requirement of this Act before entry or departure.*

The rights and duties of citizens in Nigeria, have being intensively discussed in chapter three of this study. It is provided for under Chapter Four and Chapter Two of the **Constitution of the Federal Republic of Nigeria 1999 (as amended)** respectively. In summary they are several provisions under the chapter relating to fundamental rights, the Constitution adopts the term such as “**every individual**” or “**everyperson**” which undoubtedly means all human beings physically residing within the territory of Nigeria. These terms mean and include citizens, immigrants both ECOWAS and non-ECOWAS citizens, and all persons living in Nigeria. The fundamental rights are enjoyed by immigrants and also with the citizens of the country. For example, right to life in **section 31**, dignity of human persons in **section 34**, personal liberty in **section 35**, fair hearing in **section 36**, freedom of thought, conscience and religion in **section 37**, right of freedom of expression and the press in **section 38**. They are thus in line with the objectives of the United Nations, as also expressed in the **Universal Declaration of Human rights 1948**, and concretized by the **1966 International Covenant on Civil and Political Rights**.

These fundamental rights are enjoyed by immigrants as well as the citizens of Nigeria. These rights are granted to all persons irrespective of their nationality, provided they are resident in Nigeria.

Restriction and Derogation from Fundamental Rights

However, the rights of foreigners in Nigeria is not devoid of limitation or restrictions **ARTICLE 4 OF THE PROTOCOL RELATING TO FREE**

MOVEMENT OF PERSONS, RESIDENCE AND ESTABLISHMENT

provides “Notwithstanding the provisions of Article three above, Member States shall reserve the right to refuse admission into their territory any Community citizen who comes within the category of inadmissible immigrant under its laws”.

In every country, the world over, the rights of aliens are restricted to some extent, no matter the standard of treatment of aliens adopted in any such country. The adoption of the international minimum standard of treatment of aliens is in itself a pointer to the fact that aliens and citizens do not enjoy equal treatment..

Restrictions are usually imposed based on the reason of national interest and security.

Section 45 of the Constitution of the Federal Republic of Nigerian, 1999 (as amended) contains a general provision on the restriction of fundamental rights enshrined in the Constitution. The rights provided for in **section 33 – 44** may be

restricted or derogated from by any law that is reasonably justifiable in a democratic society, in the interest of defence, public safety, public order, public morality or public health. **Section 45(3)** provides that the rights to life and personal liberty can only be derogated from, in the event of war or during period of emergency as provided for under section 305 of the Constitution.¹⁰⁸

4.7 Duties of Immigrants in Nigeria

First, there is the obligation on immigrant to report to an immigration office for examination. **Section 15 of Immigration Act No. 8 2015** provides for **Examination of persons entering or leaving Nigeria**. It states as follows;

- (1) A person entering or leaving Nigeria shall-(a) report to an immigration officer for examination, and (b) furnish such information in his possession as that officer may reasonably require for the purpose of this Act;*
- (2) The immigration officer may refuse admission in any improper case.*
- (3) A person liable to be examined by an immigration officer shall if directed to do so by such officer in the course of his examination:*
 - (a) declare whether or not he is carrying or conveying any document of any description specified by that officer,*
 - (b) Officer being a description appearing to that officer to be relevant for the purpose of the examination; and*
 - (c) Produce to the officer any document of any such description which he is carrying or conveying and the power to examine any such person shall include power to search him and any baggage belonging to him or under his control with a view to ascertaining whether he is carrying or conveying any such document;*

¹⁰⁸ M.O.UGasiokwu ECOWAS: PROBLEMS OF CITIZENSHIP AND FREE MOVEMENT (WITH BASIC DOCUMENTS), Enugu, Chenglo Ltd 1998

Provided that nothing in subsection (1) of this section shall authorize the search of any woman or girl except by a female officer.

This duty is essential at the point of entry. Having entered the country, resided and acquired citizenship through naturalization or registration, he falls under the protection of the state and owes a duty of modified allegiance to the state. An immigrant has a duty to obey the laws of Nigeria and subject themselves to the administrative authorities and also to the jurisdiction of the Nigerian Courts.¹⁰⁹

The rights of entry, residence and establishment of citizens within the territory of Nigeria are regulated by the relevant treaties, agreements and Nigerian laws. These relevant laws must therefore be complied with by the nationals concerned. Illegal entry into Nigeria must not take place, but when it has taken place, such illegal entrants must regularize their stay in accordance with immigration laws in Nigeria.

The immigrant must not engage in acts prejudicial to the country's interest. The non-fulfillment of obligations or violations of the laws of the land may bring the wrath of the law against them. The extent of redress demanded by the state, or the punitive measure taken against such offenders will be determined depending on the circumstance and in accordance with the relevant laws.

It is the duty of every immigrant to ensure that he possesses the necessary travel documents for the purpose of entry into Nigeria, must also enter through

¹⁰⁹ Section 24 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) makes provision for the duties of a citizen

authorized entry ports. Those that have entered as tourists must not engage in any type of employment or business in contravention of the laws of Nigeria and treaty rules concerning their entry.

4.8 Challenges Faced by Immigrants in Acquiring Citizenship in Nigeria

A study was carried out to understand the challenges immigrants face in acquiring citizenship in Nigeria. A questionnaire was used here. The research was done for persons between the ages of 26-40 years who are foreign nationals residing in Nigeria. Attached is a copy of the questionnaire. The list below is a summary of my findings;

1. Firstly, the visa/entry requirement in Nigeria immigration service is very expensive.
2. The departure / arrival card were hard to get.
3. Corruption of immigration officers.
4. The method of payment for visa is too complicated
6. Discrimination by Nigerians
7. Fear of being kidnapped, killed by citizens or natives of Nigeria; most of the respondent despite the fact that they benefit especially monetarily in Nigeria, they work and live in fear of being kidnapped, robbed, killed and oppressed.
8. Such immigrants cannot enjoy full rights like a citizen of Nigeria, for instance **section 307** of the **Constitution of the Federal Republic of**

Nigeria 1999 (as amended) provides *Notwithstanding any provisions contained in Chapter IV and subject to sections 131 and 177 of this Constitution, no citizen of Nigeria by registration or under a grant of certificate of naturalisation shall within ten years of such registration or grant, hold any elective or appointive office under this Constitution.*

9. Lack of infrastructural activities like good roads, poor electricity supply, poor health facility, dirty environment etc.

It is observed that nos. 1 to 6 are some of the challenges they face in entering the country. Then having entered the country the opinion listed in nos. 7 to 9 is their fear and dismay. These foreigners start getting challenges before entry into Nigeria then when they finally come into the country they meet situations which discourage them more, the thought of obtaining citizenship is more or less erased from their mind.

4.9 Deportation of Immigrants

It is interesting to see that some are willing to become Nigerians despite Nigeria's international reputation, which is not at its best. Deportation is the expulsion of a person or group of people from a place or country. The removal of foreign national is usually called deportation. Every country reserves the right to deport foreigners even those who are longtime residents. Foreigners who have committed serious

crimes, entered the country illegally, overstayed and or broken the conditions of their visa or lost their legal status to remain in the country may be administratively removed or deported¹¹⁰

Deportation often requires a specific process that must be validated by a court or senior government official. An example can be seen in the Vaswanibrothers deportation 2003, who were reportedly deported from Nigeria to London.¹¹¹ On the other hand there is the term “expulsion”, which is an act by a public authority to remove a person or persons against his or her will from the territory of that state. It has been defined as the act of depriving a member of the society of his right of membership therein by the vote of such society, for some violation of his duties as such or for some offence which renders him unworthy of no longer remaining a member of the society.¹¹² An example of expulsion is the Ghana must go experience of January 1983. The Guinea Foulahs were also expelled from Seria-Leone in 1982. One basic difference in the definition of these terms is the specification of the subjects involved in each case. While expulsion refers to the deprivation of membership of society, which may mean a social group, legal personality, etc., deportation refers to the removal of an alien from the country. But strictly

¹¹⁰Henckaerts. “MASS EXPULSION IN MODERN INTERNATIONAL LAW AND PRACTICE” 1995.p. 5. Forsythe and Lawson, Encyclopedia of Human Right 1996, p. 53-54.

¹¹¹M.O.U. Gasiokwu, OpCitp, 201

¹¹²Bourvier Laws Dictionary vol. 1 Minnesota: West Publ. Co., 1941 at 1164

speaking, the essence of the two definitions is the same i.e removal of an individual whose

presence has become or will become detrimental to general interest. But emphasis is made only to the term deportation. A successful removal of a person by a country is called deportation. Under the Nigerian Law, deportable aliens may be categorized into three groups, namely:

- (a) illegal aliens, comprising those whose initial entry into the country have been illegal i.e those who entered in violation of immigration law, either by not being in possession of valid travel documents or by entering through unauthorized ports, thereby not submitting themselves to immigration control or by bribing their way through immigration post;
- (b) those whose stay in the country became illegal by virtue of the expiration of entry permits and non-renewal of such permits. For instance if a person's passport expires in Nigeria, until he renews the same such alien is deemed not to possess a valid travel document. His continued sojourn in the country may be said to be illegal. Again if one overstays his entry permit, until the permit is extended, such person is staying illegally and liable to deportation;

- (c) those whose initial entry and stay may have been legal, but their activities within the country may make them fall out of favour with the government of Nigeria.¹¹³

In Nigeria, there are classes of person likely to be deported that is prohibited immigrants, which falls under the situation of being deported.

Section 44 of the Immigration Act No 8. 2015 makes provision for deportation. It states as follows, *any person within any of the following classes shall be deemed to be a prohibited immigrant and liable to be refused admission into Nigeria or to be deported as the case may be, that is to say –*

- (a) a person who is without visible means of support or is likely to become a public charge;*
- (b) mentally ill or mentally severely subnormal person;*
- (c) a person trafficking in persons or smuggling migrant;*
- (d) a person convicted of any crime wherever committed, which is an extradition crime within the provisions of the Extradition Act;*
- (e) a person whose admission would in the opinion of the Minister be contrary to the interest of national security;*
- (f) a person against whom an order of deportation from Nigeria is in force;*
- (g) a person who -*
 - (i) as not in his possession a valid passport; or*
 - (ii) being a person under the age of sixteen years has not in his possession a valid passport or is unaccompanied by an adult or whose valid passport particulars of such person appear;*
- (h) a person who-*
 - (i) is a prostitute; (ii) is a person who has been convicted of the offence of rape, defilement, or any sexual offence.*

¹¹³M.O.UGasiokwu Op. Cit. p 174,175

- (iii) a brothel keeper or a person permitting the defilement, or seduction of a child or young person on his premises or on any other premises under his control.*
- (iv) encourages the seduction of a child or young person;*
- (v) a person trading in prostitution or is a procurer.*

(3) The Minister may, at any time by notice add to or amend any class of prohibited immigrants in subsection (1) of this section and if he deems it conducive to the public good may prohibit the entry into or stay in Nigeria of any other persons or class of persons not in any case citizens of Nigeria.

Again section 45 of the Immigration Act provides for Deportation orders in special cases. It states:

(1) Subject to subsections (2) and (3) of this section, any person who being a prohibited immigrant enters Nigeria except in accordance with this Act shall be guilty of any offence under this Act. And if convicted the court may make a recommendation for deportation of the offender.

(2) The Minister may, if satisfied that it is in the public interest, and whether or not any person has been prosecuted for an offence under this section, make a deportation order against that person as a prohibited immigrant; and it shall be no defence that such person was not notified that his entry into Nigeria was prohibited, or that the entry was permitted by oversight or otherwise however; this subsection shall have effect notwithstanding any other provision of this Act.

(3) If the Minister is of opinion that any person in Nigeria ought, at any after his entry to be classed as a prohibited immigrant, he may make an order accordingly and the provisions of any such order shall have effect as if the person named in the order were a prohibited immigrant landing in Nigeria for the first time; any person affected by an order made under this subsection may be deported.

(4) The provisions of this section shall, if the Minister thinks fit, extend and apply to any person who having entered Nigeria beyond the time allowed by such pass or breaks any other condition subject to which such permit was issued, whether or not he has been prosecuted for an offence under this Act.

Deportation order whether or not the person has been prosecuted for an offence. One must not fail to note the element of subjectivity in this power. When it is coupled with the breadth and uncertainty of the concept of “public interest”, it means that the administration enjoys virtually unlimited discretion regarding deportation. If the Minister is of the opinion that any person in Nigeria ought at any time after his entry to be classed as prohibited immigrant, he may make an order accordingly. This further strengthens Section (3) of the Act which empowers the Minister to add or amend the class of prohibited immigrants by giving notice on such amendment.

Section 46 makes provision for Court deportation recommendations to be an order made on conviction states as follows: *(1) Where the court convict an offender under this act or any other enactment to an offence punishable by imprisonment for a term of one year and above the court may addition to or in lieu of a sentence recommend the deportation of the offender, and the minister may order his deportation accordingly.*

Section 51 of the Act further provides that any person whom a deportation order has been made against leaves Nigeria after due notice of the deportation order and subsequently returns to Nigeria he shall be guilty of an offence.

CHAPTER FIVE

CONCLUSION

5.1 Observations

1. It is observed that the number of foreigners who come into Nigeria to obtain Nigerian citizenship is very low compared to the number of Nigerian citizens seeking visa to other countries and obtaining citizenship of those countries.
2. It is also observed that Nigeria as a State has not comfortably created a platform for huge investment to attract immigrants.
3. It is observed that constant ritual killings, kidnapping, sea piracy, bunkery, youth restiveness, militants activities across the riverine areas, is a challenge to aspiring immigrants who want to acquire citizenship of Nigeria.
4. Joblessness also poses a challenge to immigrants aspiring to acquire citizenship of Nigeria.
5. Illegal foreigners sabotage Nigerian economy through their illegal activities. It was recorded that 5 Chinese nationals were involved in the operation of

illegal textile warehouse business in Kano. They operated in prohibited textile materials.¹¹⁴

5.2 Recommendations

1. The Federal Government of Nigeria should make the economy of the country viable, so as to attract more foreign investors. There should be infrastructural development, for instance good roads, stable electricity, good water supply, etc.
2. There should be a vibrant investment policy in Nigeria. Nigeria needs more manufacturing companies e.g textile industries, shoe manufacturing industries, bamboo industries, automobile industries, matches factory, etc. There should be more refineries, our production capacity in Nigeria, should be improved. Although there are shoe manufacturing industry and a textile industry in Aba in Abia State Nigeria, there is need for more of these industries in Nigeria. Again biscuit is mostly produced in the western parts of Nigeria like Lagos, Ibadan and imported to other states in Nigeria. Biscuit is consumed every day in great quantity in every part of the country both by the young and old, yet we travel all the way to Lagos, or Ibadan to get it. When there are more industries and manufacturing companies it will prevent illegal immigrants from sabotaging Nigeria's economy.

¹¹⁴ The News May 27 2015. thenewsnigeria.com.ng

3. Again the problem of unemployment should be tackled. Most of the products imported from other countries like China; Italy, U.S and Uk can be produced in Nigeria. Where there are more industries and manufacturing companies there can be an increase in manpower leading to a great reduction in unemployment. When there is a reduction in unemployment then Nigeria can be very attractive to immigrants. Then these immigrants can have keen interest to acquire Nigeria citizenship. These immigrants will not wait to be invited but on their own volition decide to come to Nigeria to contribute their skill and expertise to the development of the country.
4. Job creation will reduce youth restiveness. The Federal Government of Nigeria should create more jobs; this will benefit both citizens and immigrants in Nigeria.
5. The Nigerian immigration service should intensify a good routine mop up operations to ease and reduce illegal immigrants in the country. Nigerians should oblige the Nigerian immigration service information about any illegal immigrants in the country. Illegal foreigners will sabotage Nigeria economy through their illegal business.
6. Section 26 (b) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) should be amended to include any man who is or has been married to a citizen of Nigeria.

5.3 Contribution to knowledge

This work highlights a salient provision of the Nigerian Immigration Act which is often overlooked by both immigrants and immigration officers. Section 11 of the Immigration (Control of Aliens) Regulation of the Immigration Act 2004 provides for restriction of alien's movements. Particularly section 11(c) provides that an alien who desires to travel on a journey which exceeds 30 miles within Nigeria must obtain permission from the immigration officer in the district where such immigrants resides. The Immigration Act No.8 2015, in section 12(1),(2) gives the minister power to make regulations for the control of aliens to this effect. This provision should be considered and necessary effect should be given to it.

REFERENCES

BOOKS

Bronwen Manby. *CITIZENSHIP LAW IN AFRICA: A COMPARATIVE STUDY*, Open Society Foundation, New York 2010.

B. O. Nwabueze. *A CONSTITUTIONAL HISTORY OF NIGERIA*, 1982.

M.O.U Gasiokwu. *ECOWAS: PROBLEM OF CITIZENSHIP AND FREE MOVEMENT(WITH BASIC DOCUMENTS)*, ENUGU Chenglo LTD, 1998.

E.S.I. Ejere. *CITIZENSHIP EDUCATION IN NIGERIA*, Governance Study Group. Uyo, 2014.

KEHINDE M. MOWOE. *CONSTITUTIONAL LAW IN NIGERIA*, Malt house Press Ltd. 2008.

Laurie Fransman. *BRITISH NATIONALITY LAW (2ND ED)*, BUTTERWORTHS, 1998.

P.A Oluyede. *CONSTITUTIONAL LAW IN NIGERIA*. Evans Brothers, 2001.

Richard Marback. *GENERATIONS: RETHINKING AGE AND CITIZENSHIP*. Wayne State University Press, 2015.

Smith *CONSTITUTION AND ADMINISTRATIVE LAW* ed. H Street and R Brazier, 6th ed. Harmunds Worth Penguin Books Ltd, 1983.

ARTICLES

Adejumoke A. Afolayan. “MIGRATION IN NIGERIA. A COUNTRY PROFILE, 2009”. International Organisation for Migration 2009.”

Adejumoke A. Afolayan et al. “DYNAMIC OF INTERNATIONAL MIGRATION IN NIGERIA” (A Review of literature), 2008. “International Organisation for Migration 2009.”

- Andrew Taylor. "SENATE BLOCKS CENSUS US-CITIZENSHIP QUESTION". Newark Star-Ledger (nj.com). (2009-11-05).
- Akanni Akiyemi & Damiano Beltrane. "NATIONAL MIGRATION DATA MANAGEMENT STRATEGY" NOVEMBER, 2013.
- Anumba Florence Nnenna. "CITIZENSHIP EDUCATION IN NIGERIA: FOR THE YOUNG, OR THE OLD." Vol. 2, Rome-Italy, MCSER Publishing, 2013.
- A. Yusuf. Citizenship Education. "AN INSTRUMENT FOR UNITY AND STABILITY IN NIGERIA." Department of Art and Social Science Education, UNILORIN, ILORIN NIG
- Ben Arnoldy. "US TO UNVEIL NEW CITIZENSHIP TEST". Christian Science Monitor. 2009-11-19.
- Bill Nichols "Study guide for U.S. "CITIZENSHIP TEST OMITTS FREEDOM OF PRESS". USA Today. 2006-05-16.
- Clive Party. "NATIONALITY AND CITIZENSHIP LAW OF THE COMMONWEALTH AND THE REPUBLIC OF IRELAND" 1957.
- C N Trueman. "CITIZENSHIP" The History Learning Site, 27 March 2015. historylearningsite.co.uk.
- Danny Cevallos. "SHOULD AMERICAN SAMOANS BE CITIZENS" CNN. 11 February 2014. Retrieved 7 March 2015.
- D. Byerlee, et.al "RURAL URBAN MIGRATION IN SIERRA LEON: DETERMINANTS AND POLICY."
- Editorial staff. "A COMMITMENT TO CITIZENSHIP". The New York Times. September 25, 2009.
- Ervin Eugene Lewis. "NEW FRONTIERS OF DEMOCRACY: THE STORY OF AMERICA IN TRANSITION." American Education Press, Incorporated. 1935.
- Gabriel De La Paz, "CITIZENSHIP IDENTITY AND SOCIAL INEQUALITY"
- Hankaerts. "MASS EXPULSION IN MODERN INTERNATIONAL LAW AND PRACTICE," 1995.

Hymowitz; Weissman. "A HISTORY OF WOMEN IN AMERICA. BANTAM. 1975"

Jean Bethke Elshtain. "DEMOCRACY AT CENTURY'S END (SPEECH)". Brigham Young University. (1996-10-29).

Jerry Markon. "JUDGE OFFERS LESSON IN U.S. CITIZENSHIP". June 12, 2008.

Jonathan Alter. "WHO CARES ABOUT IOWA" March 3, 2010.

Julia Preston "SURGE SEEN IN APPLICATIONS FOR CITIZENSHIP". The New York Times. (July 5, 2007).

Matthew A. Crenson and Benjamin Ginsberg. "DOWNSIZING DEMOCRACY: HOW AMERICA SIDELINED ITS CITIZENS AND PRIVATIZED ITS PUBLIC"

Naomi Wolf. "BOOKS: THE END OF AMERICA". Washington Post. (September 27, 2007).

Paula Span "JERSEY; AN EXERCISE IN COMMUNITY". The New York Times. (November 20, 2005)

Nomra "RIGHT OF AFRICAN MIGRANTS AND DEPORTEES". A Nigerian case study JWB Project 2010

Sally Kitch. "THE SPECTER OF SEX: GENDERED FOUNDATIONS OF RACIAL FORMATION IN THE UNITED STATES". SUNYPRESS. 6 August 2009.

The Independent Institute, 2004

"THE TRUTH ABOUT ASYLUM. WHO'S WHO: REFUGEE," Asylum Seeker, Refused Asylum Seeker, Economic Migrant London, England: Refugee Council.

Christina Nunez. "WHY PEOPLE MIGRAT" GLOBAL CITIZEN <https://www.globacitizen.org>

Osenghe & Associate. "IMMIGRATION AND CITIZENSHIP IN NIGERIA" 2013

C.Y.O. Adei. *DEFINITION OF LAW*. Lecture on Jurisprudence, Faculty of Law, Delta State University Oleh Campus, 2016.

Black Law Dictionary 5th Edition.

Datablog/2013/Sep/11/ on the move 232- million –migrants in the world.

Longman Dictionary of Contemporary English

Reason people decide to move to another country.

<https://blog.riamoneytransfer.com>

www.thefreedictionary.com

www.yourdictionary.com

www.mariam.webster.com