

Deportation Of Igbos In Nigeria: The Constitutional Implications

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ABSTRACT

On 24th day of July, 2013 seventy two (72) Igbos/Lagosians were deported from Lagos State to the Upper Iweka area of Onitsha, Anambra State in South East of Nigeria by 3am by the Lagos State Government for no known offence in law. The said citizens of Nigeria who are from the IGBO race were deported from a State in Nigeria to their own region (Eastern Region) irrespective of the State they come from for no just cause. The researcher will in this article xray the propriety or otherwise of the said deportation of the Igbo citizens in their own Country viz a vie the Constitution of the Federal Republic of Nigeria.

Keywords: Deportation, Igbos, Nigerian Constitution, Lagos State, Anambra State.

Introduction

Nigeria, Africa's most populous country, is composed of more than 250 ethnic groups. The most populous and politically influential are: Hausa and Fulani 29%, Yoruba 21%, Igbo (Ibo) 18%, Ijaw 10%, Kanuri 4%, Ibibio 3.5% Tiv 2.5%¹. From the above, it can be deduced that the Igbo tribe is an ethnic group in Nigeria. These members of the ethnic groups in Nigeria reside in various parts of the country irrespective of the tribe they come from. This means that in the Northern part of Nigeria, the Yorubas, Igbos, Ijaws etc reside there; in the Eastern part of Nigeria, one can find apart from the Igbos, the Hausas, Yorubas, Ijaws, Kanurie etc. This shows that a citizen of Nigeria is not restricted from residing in any part of the country merely because he is not from that ethnic group.

On 24th day of July 2013, Seventy Two (72) Igbo Lagosians were deported from Lagos in Lagos State after they were arrested and detained, to the Upper Iweka area of Onitsha, Anambra State in South East of Nigeria by 3am by the Lagos State Government for no known offence in law. The said citizens of the Federal Republic of Nigeria who are from the IGBO race were deported from a State in Nigeria (Lagos State) to their own region (Eastern Region) irrespective of the State they come from that is whether Anambra, Enugu, Ebonyi, Imo or Abia State, for no just cause. Their only offence is that they are Igbos.

The 1999 Constitution² provides that the citizenship of Nigeria can be acquired by birth³, by registration⁴ and by naturalization⁵. Out of all the three categories of citizenship provided for under our Constitution, it is only a citizen by birth that cannot be deprived of his citizenship for any reason whatsoever. The President of Nigeria or a Governor of a State in Nigeria cannot deprive a person who is a citizen of Nigeria by birth of his citizenship. The Igbos are citizens of Nigeria. The fact that a person is a citizen of Nigeria entails that there are attendant fundamental human rights attached to it.

What are the Fundamental Human Rights?

For an adequate understanding of the term "fundamental human rights", it is necessary first to look into the meaning of

the term 'rights'. According to Salmond, a right is an interest, respect for which is a duty, and the disregard of which is a wrong⁶. He identifies four types of rights in a wider sense as rights, powers, liberties and immunities. In explaining this, the court in *Uwaifo V Attorney General of Bendel State* noted:⁷

There are rights in the strict sense, when the law limits the liberty of others on my behalf, liberty when the law allows my will a sphere of unrestrained activity; power when the law actively assists me in making my will effective; immunity when the law denies to others a particular power over me in the narrow sense, an immunity is that which other person cannot do effectively in respect of me.

According to Blacks Law Dictionary,⁸ the word 'right' taken as a noun, in an abstract sense, means justice, ethical correctness or consonance with the rules of law or the principles of morals;.... as a noun taken in a concrete sense, it means a power, privilege, faculty or demand inherent in one person and incitement upon another;.. and the primary rights pertaining to man are enjoyed by human being purely as such, being grounded in personality and existing antecedently to their recognition by positive law.... a right is well defined as capacity residing in one man of controlling, with the assent and assistance of the state, the action of others.

When a right corresponds to a duty, which is recognized, and enforced by law, it is called a perfect right. Those that are not enforceable are called imperfect rights.⁹

The main focus of this discuss is on those rights, which are recognized under the Constitution of nations and are often, termed human rights. In classifying such rights, Blackstone said that they are often natural, civil, political and economic. They are natural in the sense of growing out of the inherent nature which such nature calls him; civil as regards those rights which belong to every citizen of a state by virtue of such citizenship, political as for example, the right to vote and hold public office and sometimes economic such as the right to employment, education and shelter.¹⁰ Various aspects of these rights are recognized by the constitutions of nations and have been defined by the courts in different ways. The court in

1. The World Factbook 2013 Start .Csail Mitedu/ startfarm cgi? accessed on 29/01/16
2. as amended
3. Section 25 1999 constitution as amended
4. section 26, 1999 constitution as amended
5. section 27, 1999 constitution as amended
6. Salmond, Jurisprudence, (Glanville Williams, 11th ed) p. 261
7. 1983 54 NCLR 1 SCN
8. B Garner 6th ed 1323
9. Salmond, *op cit* 208
10. Law Dictionary, 6th ed., 1324

*Siddle v Major*¹¹ defined fundamental rights as 'those which have their origin in the express terms of the constitution or which are necessary to be implied from those terms'. In this respect, such rights vary from nation to nation. Within the Nigeria context, fundamental rights have been variously defined. As per Eso JSC in *Ransome Kuti v Attorney General of the Federation*:¹²

Fundamental right is a right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence and what has been done by our constitutions since independence... is to have these rights enshrined in the constitution so that the right could be "immutable to the extent of the "no immutability" of the constitution itself".

According to the court in *Asemota v Yesufu*¹³ "fundamental right is an undoubted inalienable right, which corresponds to as 'jus naturale: it is the greatest right, and when it is contained in the constitution of a nation, it enshrines peoples' expression of political and civic and or civil rights (as endowed by nature) but only to the extent that the strictness of largeness of the modern systems of government does permit." Thus chapter IV of the 1999 Constitution like its predecessor generally provides for these rights which are civil and political in nature.

These rights cannot be waived by the State¹⁴ or by the individual, where the right is not for his sole benefit, but in the control of the State or the courts¹⁵. Also a person does not lose a fundamental right on grounds of its non-exercise¹⁶. The courts have advocated liberal attitude in the interpretation of the provisions of the constitution in relation to fundamental rights except where a narrower interpretation better serves the spirit, objective and intention of the constitution¹⁷. This according to the court in *Garba v University of Maiduguri*¹⁸ is because of the "comparative education backwardness, the socio-economic and the reliance that is being placed and necessarily have to be placed, as a result of this backwardness on the court."

These fundamental rights include:

- a. Right to life
- b. Right to the dignity of the human person
- c. Right to fair hearing
- d. Right to privacy
- e. Right to freedom of thought conscience and religion
- f. Freedom of expression and the press
- g. Right to peaceful assembly and association
- h. Right to freedom of Movement
- i. Freedom from discrimination
- j. Right to property.¹⁹

The writers from the discus will emphasize on the right to dignity of the human person and the personal liberty.

Right to the Dignity of the Human Person

This right is one of the most intrinsic rights of man and can be seen as the determinant of personhood. The universal concept of equality no doubt compels the respect for certain minimum standards or factors in the attainment of this

dignity. The atrocities of World War II brought to light the need for drastic measures in this respect irrespective of nationality, colour or status. The concept of human dignity is one that has a changing content and can only be determined from the evolving standings of decency that mark the progress of a maturing society.²⁰ In keeping with the international standards and expectations in the area of human rights, national and regional documents also make provision for the observance of this right. A cursory look at these international instruments is necessary here for a better understanding of the content of this right.

In recognition of its importance, the Charter of the United Nations in its preamble reaffirms, among other things the universal faith "in the dignity and worth of the human person." Similarly, the Charter of the African Union²¹ also stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples". In reaffirmation of this belief, article 1 of the universal declaration of human right²² provides: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".

This seems to imply the fact that there is a universal concept of dignity, or a minimum standard of human dignity. Articles 4, 5 and 6 thereafter provide for various aspects of this right as follows:

1. No one shall be held in slavery or servitude's slavery and the slave trade shall be prohibited in all their forms.
2. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
3. Everyone has the right to recognition everywhere as a person before the law.

The international covenant on civil and political rights in the same vein prohibits "torture", or "cruel, inhuman or degrading treatment or punishment." In particular no one shall be subjected without his free consent to medical or scientific experimentation. In other words, such experiment without the requisite consent would amount to inhuman or degrading treatment. Furthermore, in article 8 the convention prohibits slave trade or servitude and forced or compulsory labour, provided such is not that required as a result of imprisonment or lawful detention, military or national service, or service exerted in cases of emergence or calamity.

The international covenant on economic, social and cultural rights does not directly provide for this rights but provides for other rights which can fundamentally affect this right. For example, article 13 in recognising the importance of education states:

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity.....²³

Without education a person may also not have the capacity to understand or enforce most of his rights or be able to enjoy other rights guaranteed under the covenant. Note worthy is also the right to "adequate standard of living", "including

11. 264 Ind. 206, 341 N.E 2d 763, 769

12. (1985) 2 NWLR, 211 SCN

13. (1982) 3 NCLR, 419H.C

14. Attorney General Federation v Attorney General (Bendel State) (1981) 10 S.C

15. Ariori v Elemo (1983) I.S.C 13

16. Re Kerala Education Bill AIR (1985) S.C.956 at 981 (S.C India)

17. Osawe v Registrar of Trade Unions (1983 4 NCLR 556 AC

18. (1986) NCLR (pt18) 550

19. Sections of the 1999 constitution as amended

20. Trop v Dulles 356 U.S 86, 100-101 (1958)

21. 26th June 1945, CNUOL, Vol. 15, p.365

22. A.G Res 217 A (iii) Doc. N.U A/810 (1948)

23. Underlining is mine. The italicized words recognize the importance of education to the sense of human dignity

adequate food, clothing and housing and continuous improvement of living conditions,"²⁴ and right to "enjoyment of the highest attainable standard of physical and mental health", both of which are integral to the attainment of human dignity anywhere. It is apparent that a person who lacks food, clothing and housing as a result of which physical and mental health would suffer, cannot be said to possess the dignity of the human person.²⁵ It is recognized under the convention that these rights are to be progressively attained in recognition of the fact that a nation may not possess the economic power to fully attain them. There is however, a positive duty on the part of government to work towards its attainment. In confirmation of the importance of these other rights on human dignity, item I(28) of the Vienna declaration and programme of action²⁶ provides: "The World Conference on Human Rights affirms that extreme poverty and social exclusion constitutes a violation of human dignity....."

In recognition of this inherence of dignity in the very nature of man, it is also guaranteed to persons with mental illness in section 2 of the principles for the protection of person with mental illness and the improvement of mental health care,²⁷ to the mentally retarded, who are said to have, 'to the maximum degree of feasibility,' the same rights as other human beings,²⁸ and to the disabled in section 3 of the declaration on the rights of the disabled in the following words:

Disable persons have the inherent right to respect for their human dignity. Disable person whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow citizen of the same age, which implies first and foremost, the right to enjoy a decent life, as normal and full as possible.

Most importantly, the importance of human dignity in the area of scientific research is also given international recognition. The universal declaration on the human genome and human rights²⁹ recalls that the preamble to the UNESCO constitution refers to "the democratic principles of the dignity, quality and mutual respect of men," rejects any "doctrine of the inequality of men and races," and stipulates "that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of men." It also emphasizes "that the recognition of the genetic diversity of humanity, must not give rise to any interpretation of a social or political nature which would call into question the inherent dignity and ... the equal and inalienable rights of all members of the human family." The general conference though recognizing the importance of research on the human genome in the areas of health, insisted that it must respect human dignity and rights. Thus in articles 2 it provides:

- a. Everyone has a right to respect for their dignity and for their rights regardless of their genetic characteristics.
- b. That dignity makes it imperative not to reduce individuals to their genetic characteristic and to respect for their uniqueness and diversity.

Article II provides that: State should take appropriate measures to encourage other forms of research, training and information dissemination conducive to raising the awareness of society and all of its members of their responsibilities regarding the fundamental issues relating to the defence of human dignity which may be raised by research in biology, in genetics and in medicine and its applications.

From all the above, it is obvious that the concept of human dignity and personhood transcends the limitations of national constitutional provisions. The universal concept of equality no doubt compels the respect for certain minimum standards or factors in the attainment of this dignity. These minimum standards are closely linked, if not synonymous with the attainment of certain basic if not all economic, social and cultural rights. This is because non-attainment of these second generation rights affect the dignity of the human person upon which all other rights stand.

Section 34 of the 1999 constitution provides:

Every individual is entitled to respect for the dignity of his person, and accordingly:

- a. no person shall be subjected 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.

Subsection 2 lists certain exceptions to the provisions of section 34 (1) (c), which will be discussed later. Note that this is an area in which there have not been much litigations despite the atrocities committed under military rule. Frequent recourse will therefore be made to interpretation of similar provisions under other systems.

The word "accordingly" used in the section implies the fact that subsection (a), (b) and (c) are seen as examples of acts contrary to the right to the dignity of the human person and are not limited to such acts. In other words, the concept of human dignity transcends these specified acts.

Right against torture, inhuman or degrading treatment

According to Professor B.O. Nwabueze³⁰ this covers not only the type of punishment meted out to an offender, but his treatment in police custody or prison. This is true but it must be borne in mind that it also covers all forms of such treatment whether by governments, its agencies, private agencies or individuals as was stated by the court in the case of *Catholic Commission for Justice and Peace in Zimbabwe v Attorney General*,³¹

.....Any punishment or treatment incompatible with the evolving standards of decency that mark the progress of a maturing society... is repulsive. What might not have been regarded as inhuman decades ago may be revolting to the new sensitivities which emerge as civilization advances.

Thus as was further noted by the court in that case, the emerging consensus or values in civilized international communities and contemporary norms operative in Zimbabwe, and the sensitivities of its people must always be taken into consideration in deciding whether a particular act or practise is inhuman or degrading. The importance of ensuring the observance of this right in the light of developments and happenings in various nations, and especially the Third World, necessitated the making of the convention against torture and other cruel, inhuman or degrading treatment or punishment which defines torture in article 6 as:³²

24. Article 11

25. Article 12

26. Adopted at the United Nation World Conference on Human Rights Vienna 14-15 June 1993

27. Adopted by General Assembly resolution 46/119 of 17 December, 1991

28. Declaration on the Right of Mentally Retarded Person, Proclaimed by General Assembly resolution 2856 (xxxvi) of 20 December, 1971

29. Adopted at the 29th Session of the General Conference of UNESCO, 11 Nov. 1997

30. The Presidential Constitution of Nigeria (Sweet & Maxwell) p411

31. S.C 73/93 14 Hum Rights L.J 323 (1993)

32. December 1984 UN, Treaty Series, Vol. 1465, p.85 It came into force 26 June 1987

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

This definition covers only acts by public officials or other persons acting in such capacity. This is probably so because the convention is a treaty among nations with a view to eradication of the acts covered by the convention within the territory of State parties to the convention. Within the provisions of the constitution, it can go beyond this, and the guilty party does not have to be acting officially except in cases of crime and punishment.

Personal Liberty

The right to person liberty is one of the most basic of all rights and is wide enough to encompass other rights such as right to movement, and right to associate. It is variously provided for under international treaties and constitution of nation. According to Lord Denning, it means, "the freedom of every law abiding citizen to thin what he will, to say what he will on his lawful occasions, without let or hindrance from any other person."³³ This is no doubt very wide and would include almost every other right that may be thought of. Dicey however gave a much narrower definition, that it is the right not to be subject to imprisonment, arrest and any other physical coercion in any manner that does not admit of legal justification³⁴ To Lord Halsbury³⁵

The so called liberties of the subject are really drawn from two principle that the subject may say or do what he pleases provided he does not transgress the substantive law, or infringe the legal of others, whereas public authority (including the crown) may do nothing but what they are authorized to do by some rule of common law or statue. Where public authorizes are not authorized to interfere with the subject he has liberties.

There is no doubt that the question of what constitutes personal liberty would vary from nation to nation, depending on constitutional provisions which has been variously interpreted. In the United States for example, it has been stated that, as used in both state and federal constitution it means.

In a negative sense, freedom from restraint, but in a positive sense, involves the ideal of freedom secured by the imposition of restraint³⁶. It has been stated to include and comprehend all personal rights and their enjoyment³⁷ denote not just freedom from bodily restraint but also right to contract engage in any of the common occupation of life, acquire useful knowledge, marry establish a home bring up children, worship God according to the dictates of his own conscience;

and generally enjoy privileges long recognized at common law as essential to the orderly pursuit of happiness of free men³⁸.

To the court in *Adewole v Jakande (Governor Lagos State)*³⁹ personal liberty means privileges, immunities or rights enjoyed by prescription or by grant. It denotes not merely freedom from bodily restraint, but rights to contact, to have an occupation, to acquire knowledge, to marry, have a home, children, to worship, enjoy and have privileges recognized at law for happiness of free men.

This definition is generally similar to that given by Lord Halsbury and quoted above. The court further stated, with particular reference to the provisions of section 32 of the 1979 constitution which provided for personal liberty, approving the definition in the civil rights cases in the United States that it is:

....the right or power of locomotion; of changing situation or moving ones person to whatsoever place ones own inclination may direct, without imprisonment or restraint, unless by due course of law⁴⁰.

No doubt, the provisions of the law granting personal liberty and the manner in which it is granted determines its nature. The universal declaration of human rights in a very indeterminate manner provides, "Everyone has the right to life, liberty and security of person." In a more explicit manner, article 9 of the international convention, civil and political right provides.

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

It thereafter lays down certain procedure to be followed where liberty, which is define in terms of physical liberty, is denied. Article 5 of the European convention for the protection of human rights and fundamental freedoms also provides for the right to personal liberty and security of person in a similar manner. No doubt, much depends on the provisions of the law or constitution granting personal liberty in a nation. No matter the content or scope of the personal liberty, to ensure its preservation in Nigeria and in most common law and other countries, all over the world, the right cannot usually be taken away except in accordance with the provision of the law. Thus section 35(1) of the 1999 constitution provides.

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 law⁴¹

The right to freedom of Movement

Movement is one of the most basic features of living things, most especially animals and man inclusive. Its primary meaning is the physical movement from place. As Chambers Twentieth Century Dictionary puts it, it means "to walk, to carry oneself" It is in this sense that the term is usually used in civil liberties. As a result, it is often seen as an important extension of personal liberty and one of the most jealously guarded rights especially because it is regarded as the hall mark of the citizenship of any country, democratic or not. On

33. Freedom Under the law (1949) p.5

34. Constitution law (9th edition)pp 207-208. This definition was quoted with approval by Justice Orojo in *Oba Gabriel Orojo v The ATTORNEY General of Ondo State & Anor* (1982), 3 NCLR, 349 as stating the meaning of personal liberty in Nigeria

35. Halsobury's Laws of England (3rd edition) pp 195-196

36. Blacks Law dictionary 5th edition; see *Fitzimons v New York State Athletic Commission* sup 146 NYS 117,112

37. *Rosenblum v Rosenblum* 181 Misc 78, 42 NY 2d 626,630

38. *Justice Me Reynolds in Meyer v Nebrasked* 262 U.S 390 (1923)

39. (1981) 1 NCLR 262 at 278 HC Lagos

40. 109 U.S 3 ct 42, 27 L Ed 835

41. Italics are mine

the other hand, however, its restriction is the most sought after by despotic and military governments all over the world, "perhaps because those who wield power by force are bound to be haunted by fears, real or imaginary, of citizen who may feel strongly against their rule⁴². It is one of the earliest recognized rights⁴³. and one, which like other right has gained international recognition Article 13 of the universal declaration of human rights provides.

Everyone has the right to freedom of movement and residence within the boarders of each state. Everyone has the right to leave any country including his own, and to return to his country.

Article 12 of the international covenant on civil and political rights more specifically state:

1. Everyone lawfully within the territory of a state shall within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.

Article 2 of protocol 4 to the European convention for the protection of human rights and fundamental freedom makes provision in a similar manner but allows lawful derogations. Article 12 of the African Charter on human and people's rights makes similar provisions allowing restrictions in national interest, asylum because of persecution in one's country and prohibits mass expulsion of non nationals, or expulsion of a non national legally within a state except in accordance with the law. It is obvious from these that generally freedom of movement, residence, exit and entry, subject to lawful restrictions are marks of this right.

Section 41 (1) of the 1999 constitution provides, inter alia.

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

Note that the section specifically states that this freedom belongs to citizens of Nigeria who under chapter III of the constitution are divided into the following categories.

1. Citizens by birth,⁴⁴ that is
 - a. anyone, born in Nigeria before independence, any of whose parents or grandparents was born in Nigeria and belongs or belonged to a community indigenous to Nigeria.
 - b. anyone born after independence, any of whose parents or grand parents is a Nigeria citizen.
2. Citizenship by registration⁴⁵ which can be conferred by the president on
 - a. any person of full age and capacity born outside Nigeria, any of whose grandparents is a Nigeria citizen.
 - b. A woman who is or has been married to a Nigeria
3. Citizenship by naturalization⁴⁶ which can be conferred by the president on any person who satisfies certain conditions, laid down in the section.

It is only these categories of persons that can lay any legitimate claim to freedom of movement in Nigeria. This freedom can be divided into various categories under the section. The scope of this right is reinforced further by the provisions of the African Charter stated above which is part of our laws and section 15 (3) and (4) of the constitution which provides.

4. for the purpose of promoting national integration, it shall be the duty of the state to
 - a. provide adequate facilities for and encourage free mobility of people goods and service throughout the federation;
 - b. secure full residence rights for every citizen in all parts of the federation.
5. The state foster a feeling of belonging and of involvement among the various people of the federation, to the end that loyalty to the nation shall override sectional loyalties.

Thus this right connotes the following

a. Freedom to move freely throughout Nigeria

This freedom without doubt ensure the right of every Nigeria to travel throughout the thirty-six states of the country. This freedom to move freely relates to physical movement of a person within and outside a state, using the accepted modes of transportation. It can thus be seen as an aspect of the right to personal liberty, which however had to be separately provided for because of its fundamental nature. Thus this right cannot be taken away except in constitutionally permitted circumstance, like restrictions placed on the personal liberty of a convict, persons under reasonable suspicion of having committed a crime, person suffering from infectious diseases and other types of infirmities, lawful or legal curfews and so on.⁴⁷ Barring these exceptions therefore, no restrictions whatsoever can be placed on the freedom of a citizen to travel from state to state and within a state.

Commenting on this aspect of freedom of movement in the United States, Douglas J. in *Apatheker v Secretary of State*⁴⁸ stated that the right to move freely from state to state is a privilege and immunity of national citizenship, "absent war, I see no way to keep a citizen from travelling within or without the country unless he has been convicted of a crime, or there is probable cause of issuing warrant of arrest.

Under Article 9 (1) (d) of the Indian constitution, all citizen have the right to move freely throughout the territory of India. In *Gopalan v The State*⁴⁹ Kania J stated inter alia that the concept of right to move freely throughout the territory of India was different from the right to personal liberty. Here, the emphasis was not just on free movement but on the right to move freely throughout the territory of India, and this should always be read subject to provisions of sub-section 5 which restricts it.

The importance of this right can, perhaps, be further appreciated, if one considers the fact that it makes certain other rights more meaningful. For example, without it, the rights of personal liberty⁵⁰, and freedom of assembly and association⁵¹ would be of no practical use. The is, to be able to freely assemble and associate, there must be the freedom

42. Aguda A judicial Protection of Some Fundamental Rights in Nigeria, and in Sudan Before and during Military Rule (1972) J.A.L 140

43. The Magna Carta of 1215 gave free man the right to leave the realm at his pleasure in times of peace see chapter 42 of the version confirmed by King Edward in 1297 6 Halsbury's Stautes 3rd ed 401

44. Section 25 1999 constitution

45. Section 26 ibid

46. Section 27 ibid

47. See provisions of section 35 and 45 of the 1999 constitution

48. 378 U.S 500 (1964)

49. (1950) SCR 88 A.S.C 27

50. Section 35, 1999 Constitution

51. Section 40 ibid

of physical movement from one place to another, within or outside a state, for purposes of assembly or association.

b. Freedom to reside in any part of Nigeria

Following the freedom to move from place to place, every citizen of Nigeria also has the freedom to reside or be domiciled in any part of the country, permanently or temporarily. This connotes the fact that a Nigeria citizen is free to change his residence periodically and as often as he chooses without any restrictions whatsoever by federal or state authorities. This right to reside must be read and interpreted in the light of the provisions of section 15 (3) and (4) stated above.

This right to change or domicile would of course be meaningless without the right to acquire property for that purpose, subject to the laws of that state as it applies to the indigenes. Thus section 43 of the constitution provides for the right to acquire immovable property anywhere in Nigeria. This means that no state or local government can constitutionally make laws, which discrimination against people of another state with respect to acquisition of property, such would without doubt also constitute an infringement on the right to freedom from discrimination. This does not however seem to affect the right of individuals in a state to refuse to sell property or land to non-indigenes. There is no doubt that there is, in practice, discrimination, thought only on individual levels in this area in many states of the federation especially outside the state capital cities. The reason for this again perhaps because of the inherent fear of domination of one ethnic group by another.

The freedom to reside anywhere also necessarily carries with it the right to be entitled to all the rights and privileges guaranteed by the federal government to every citizen under the constitution or laws, and also other rights that are normally granted to citizen of that state. The freedom to reside and thus be domiciled anywhere would be meaningless if a citizen cannot claim rights and privileges which would make him comfortable in his choice of residence, and not be treated like an alien own country. The state may however, in consideration of the multi-ethnic nature of the nation, reserve the right to prescribe a reasonable minimum period of residency after which a citizen can take advantage of certain privileges accorded to citizens of that state. Such a requirement should not be excessive and must not be excessive and must not be extended to those rights and privileges, without which residence or domicile would be meaningless.

Deportation of Dissidents

In 1855 the British Colonial regime deported King Jaja of Opobo to Remote Island in West Indies where he died in 1889. His offence was that he had challenged the Imperialist control of the coastal trade. In 1941 Comrade Michael Imoudu, president of Nigeria Union of Railwaymen was deported from Lagos and Bam sled to his home town, Auchu in the Benin Province as he was considered "a political threat to public safety" He only returned to Lagos in 1945 following the revocation of section 57 -63 of the General Regulation⁵² under which he had been detained. There were other nationalist agitators and labour leaders who were deported

and banished to prevent them from taking part in the struggle against colonialism the barbaric practices of deporting Nigerians was resuscitated by the defunct military dictatorship.

In particular, the reactionary regimes of Generals Ibrahim Babangids and Sani Abacha resorted to the crude harassment of political opponents by deportation.

The Illegality of Internal Deportation

Since deportation has been resuscitated under the current political dispensation, it has become pertinent to examine the legal implications of the forced deportation of a group of citizens on account of their impecumous statues. There is no existing law in Nigeria which has empowered the federal or state governments to deport any group of Nigeria citizen to their states of origin.

Accordingly, the forced removal of the Igbos from Lagos State and repatriation to their sattu of origin are illegal and unconstitutional as they vacates the fundamental right of such citizen enshrined in the constitution⁵³.

In particular, deportation is an affront to the human rights of the citizen to dignity of the their person⁵⁴ personal liberty⁵⁵ freedom of movement⁵⁶ and right of residence in any part of the country⁵⁷.

Furthermore, the deportation of the Igbos from Lagos by the Lagos State Government is a repudiation of section 15 of the constitution⁵⁸ which has impose of a duty on the political objective of the State imposes a duty on the governments to "secure full residence rights of every citizen in all parts of the federation" it is illegal to remove citizen from their place of abode without providing them with alternative accommodation. By the act of the Lagos State Government in deporting these citizen, the state government are violating section 42 of the constitution⁵⁹ which has allowed discrimination on the basis of place of birth or state of origin.

In so far Article 2 of the Africa Charter on human and people right (Ratification and Enforcement) Act⁶⁰ Laws of the federation of Nigeria 2004 has specifically banned discriminatory treatment on the ground of social origin, fortune, birth or other status" it is indefensible to subject any group of citizen to harassment.

On account of their economic status an citizen renewal policy that has provision for only the rich cannot be justified under Article 13 of the Africa Charter which provides that every citizen shall have equal access to the public services of the country.

In the celebrated case of *the Minister of Internal Affairs v Alhaji Shugaba Abdulralam Darma*⁶¹ the court of Appeal upheld the verdict of the Borwo State High Court which had held that the deportation of the Respondent (Alhaji Slugaba) from Nigeria to Chad by the Federal Government constituted "civiolation of his fundamental rights to personal liberty, privacy and freedom move freely throughout Nigeria"

In the Director, *State security service v Olisa Agbakoba*⁶² the supreme court reiterated that "it is not in dispute that the constitution gives to the Nigeria and to reside in any past thereof.

52. 1941

53. Federal Republic of Nigeria 1999 as amended

54. Section 34

55. section 35

56. section 41

57. section 43

58. As amended

59. As amended

60. Cap 49

61. 1982 3 NCL 915

62. 1999 3 NWLR (PT 595) 314 at 356)

Since deportation has denied the victims the fundamental right to move freely and reside in any state of their choice it is illegal and unconstitutional. It is indubitably clear that the fundamental human right guaranteed by the constitution and the Africa Charter Act are not enjoyment of all Nigeria citizen. To that extent no state government has the power to deport or enter into agreements to repatriate any group of citizen to their states of origin.

Conclusion

These fundamental rights are rights guaranteed by our constitution and for citizen of Nigeria citizens of Nigeria cannot be deprived from enjoyment of these constitutional provision. Neither the President nor the Governor of a State can for no just cause infringe on these rights as enshrined in our Constitution.

In a situation where some Igbos who reside in Lagos are, for just cause arrested, detained and sent back to the Eastern part of the country irrespective of the particular state where they come from is an infringement of their constitutional rights of dignity human person and personal liberty. Their rights can only be limited by the legislators and the courts and not the executive.

Recommendations

1. The Federal Government of Nigeria should sanction Government of Lagos State for this dastardly acts so that there will not be any future occurrence in respect thereof.
2. The federal Government should ensure the protection of the Igbos from marginalization.
3. The government should ensure that the rights of the Igbos are fully protected against discriminatory practices.
4. The Lagos State Government should reabsorb and accommodate these deportees.