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**CITIZENSHIP AND THE STATE II.**

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THE NINTH EDITION OF THE BLACK'S LAW DICTIONARY DEFINES THE FOLLOWING TERMS, THUS:

**1: CITIZEN:** A person who, by either birth or naturalisation, is a member of a political community, owing allegiance to the community and being entitled to enjoy all its civil rights and protections; a member of the civil state, entitled to all its privileges.

**2: RIGHT:** A legally enforceable claim that another will do or will not do a given act; a recognised and protected interest, the violation of which is a wrong.

**3: DUTY:** A legal obligation that is owed or due to another and that needs to be satisfied; an obligation for which someone else has a corresponding right.

**CITIZENSHIP, NATURALISATION AND ALIENS IS THE NINTH ITEM ON THE EXCLUSIVE LEGISLATIVE LIST.**

# INTRODUCTION

Citizenship is the status of a person recognised under the custom or law, as being a legal member of a sovereign state or belonging to a nation. The idea of citizenship has been defined as the capacity of individuals to defend their rights, in the presence of government authority. Citizenship is the status enjoyed by nationals of a country, which entitles them to full legal, economic, social and political rights. Every country has its own law governing citizenship and other aspects of their citizens' lives. It is also known as nationality.

# THE NATURE OF CITIZENSHIP

- (1) **LEGAL CITIZENSHIP:** It simply means “having legal status”. A citizen of a country enjoys certain legal rights, in contrast to aliens, who may be admitted and may enjoy some citizenship rights, but not all. Legal citizenship may involve political rights, such as the right to vote and be voted for.
- (2) **SOCIOLOGICAL CITIZENSHIP:** This category means that a person may be a “citizen” of a country (or of a larger unit, such as the European Union), as well as holding other identities such as race, class, religious affiliation, etc.
- (3) **PATICIPATORY CITIZENSHIP:** The idea of “participation” as an important part of citizenship has raised the issue of what in reality (asides from legal provision) makes such participation possible. Obvious factors include the opportunity to work and to contribute to society, a reasonable level of income, access to public authorities and channels for the expression of views.

## DIFFERENCES BETWEEN A CITIZEN AND A NON-CITIZEN

According to Merriam Webster's Collegiate Dictionary, a citizen is "a member of a state to whom he/she owes allegiance, and is entitled to its protection". Hence, a non-citizen is someone who is not a member of a state, neither does he/she owe allegiance. The differences are thus:

- (1) The rights of a citizen are irrevocable, while those of a non-citizen could be revoked at any time.
- (2) A citizen has the right to vote and be voted for, while a non-citizen can neither vote nor be voted for.
- (3) A citizen has full legal rights, while a non-citizen's legal rights are limited.
- (4) A citizen can never be deported under any circumstance, while non-citizens can be deported.
- (5) A citizen's rights are constitutionally entrenched, while those of a non-citizen are not.

### CONSTITUTIONAL PROVISIONS OF CITIZENSHIP

#### CHAPTER III OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (TYPES OF CITIZENSHIP):

#### SECTION 25 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (CITIZENSHIP BY BIRTH):

- (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 citizen born outside Nigeria, either of whose parents is a citizen of Nigeria.

- (2) In this section, **"the date of independence"** means the first day of October 1960.

#### SECTION 26 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (CITIZENSHIP BY REGISTRATION):

- (1) Subject to the provisions of section 28 of this Constitution, a person to whom 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 of this Constitution.
- (2) the provisions of this section shall apply to –
- (b) any woman who is or has been married to a citizen of Nigeria; or
  - (c) every person of full age and capacity, born outside Nigeria, any of whose grandparents is a citizen of Nigeria.

**SECTION 27 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (CITIZENSHIP BY NATURALISATION):**

- (1) Subject to the provisions of section 28 of this Constitution, anybody who is qualified in accordance with the provisions of this section, may apply to the President, for the grant of certificate of naturalisation.
- (2) No person shall be qualified to apply for the grant of a certificate of naturalisation, unless he satisfies the President that –
- (a) he is a person of full age and capacity;
  - (b) he is a person of 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 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 of 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 period of twelve months, and during a period of twenty years immediately preceding that period of twelve months, has resided



in Nigeria accounting in the aggregate to not less than fifteen years.

#### **SECTION 28 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (DUAL CITIZENSHIP):**

- (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 by naturalisation 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 that citizenship or nationality of that other country, within a period of not more than five months from the date of such registration or grant.

It must be noted however that, by virtue of **Section 28 of the 1999 Constitution of the Federal Republic of Nigeria (As Amended)**, dual citizenship is not permitted constitutionally.

**\*DUAL CITIZENSHIP:** This is the status of having multiple citizenship, where a single person is legally recognised as a citizen of two or more countries at the same time. Dual citizenship can be acquired through birth, naturalisation, marriage and investment. Some countries that allow dual citizenship include: Algeria, America, Angola, Brazil, Burkina Faso, etc.

#### **THE BENEFITS OF DUAL CITIZENSHIP:**

- (1) **SECURITY:** A second passport from a stable country can be life-saving in the event of any kind of any kind of political, economic or social unrest in one's home country.
- (2) **BUSINESS:** New business opportunities are open to dual citizens, as they can transact businesses in their host and second countries.

#### **SECTION 29 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RENUNCIATION OF CITIZENSHIP):**

- (1) Any citizen of Nigeria of full age, who wishes to renounce his Nigerian citizenship shall make a declaration in the prescribed manner of 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 age.

#### **SECTION 30 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (DEPRIVATION OF CITIZENSHIP):**

- (1) The President may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, if he is satisfied that such a person has, within a period of seven years after becoming naturalised, 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 a citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of the 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.

#### **SECTION 31 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (PERSONS DEEMED TO BE NIGERIAN CITIZENS):**

For the purposes of this Chapter, a parent or grandparent of a person shall be deemed to be a citizen of Nigeria, if at the time of the birth of that person, such parent or grandparent would have possessed that status by birth, if he had been alive on the date of independence; and in this section, **“the date of independence”** has the meaning assigned to it in section 25 (2) of this Constitution.

#### **SECTION 31 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS**

## AMENDED) (POWER TO MAKE REGULATIONS):

- (1) The President may make regulations, not inconsistent with this Chapter, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Chapter, and for granting special immigrant status with full residential rights to non-Nigerian spouses of citizens of Nigeria, who do not wish to acquire Nigerian citizenship.
- (2) Any regulations made by the President, pursuant to the provisions of this section, shall be laid before the National Assembly.

## CHAPTER IV OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (FUNDAMENTAL RIGHTS):

Incontrovertibly, Rights constitute a very important subject of both academic and legal importance. So important is the subject that, provisions on Rights are entrenched in most Constitutions of developed and developing nations of the world. In Nigeria, the Supreme Court, which is the apex Court of the land, has at different times, made very important and illuminating, pronouncements on issues relating to Rights, and has, generally, expressed the willingness to protect and safeguard the Rights of the Nigerian people. Moreover, Rights have been incorporated in all Nigerian constitutions since independence in 1960.

*“Human Rights”*, in broad terms, include civil, political, economic, social, cultural, developmental rights, et cetera, which, undoubtedly, are indispensable to a meaningful existence. They are inherent rights to be enjoyed by all human beings in a country or nation and not gifts to be withdrawn, withheld or granted at a particular person’s whims and caprices. They are part of the nature of a human being and attach to all human beings everywhere in all societies, just as do his arms and legs. However, the exercise of one’s fundamental human rights are subject to certain limitations, which are stated hereafter.

# THE NATURE OF RIGHTS

- (1) **NATURAL AND HUMAN RIGHTS:** These rights are given by God and nature to every human being. The state is the guardian of such rights, not the creator of them. To deprive human beings of such rights is morally wrong. Governments have an obligation to uphold these rights. If they do not do so, it is immoral. The most articulate exponent of this type of rights was John Locke. He itemised the rights as “life, liberty and property”.

- (2) **LEGAL RIGHTS:** These are maintained by the laws of the state. If such rights are infringed upon by the government or other citizens, one can seek redress in a law court.

## CHARACTERISTICS OF HUMAN RIGHTS

Philosophers continue to argue about the nature of human rights, but the international community stated its commitment to the protection of everyone's fundamental human rights when it adopted the **Universal Declaration of Human Rights (UDHR) in 1948**. Many countries have since ratified these rights into their constitutions. The characteristics include:

- (1) **INALIENABILITY:** This means that you cannot lose them. They are at the very core of human existence. In some circumstances, however, some can be suspended. For example, if someone is convicted of committing murder, his/her right to liberty would be taken, by virtue of imprisonment. Also, in a state of emergency, the right to freedom of movement would be taken, due to the imposition of curfew.
- (2) **INDIVISIBILITY:** This means that, the different fundamental human rights are intrinsically connected, and can therefore, not be viewed in isolation. The rights are dependent on each other.
- (3) **UNIVERSALITY:** This means that, fundamental human rights apply to everyone, irrespective of race, complexion, sexual orientation, gender, etc.

### SECTION 33 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO LIFE):

- (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, 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.

**SECTION 34 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (RIGHT TO DIGNITY OF HUMAN PERSON):**

(1) every individual is entitled to respect for the dignity of his person and accordingly –

- (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 by the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;
- (c) in the case of persons who have conscientious objections to the service of 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 a calamity or an emergency 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 well-being 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.

**SECTION 35 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (RIGHT TO PERSONAL LIBERTY):**

(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 –

- (a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;
- (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

- (c) for the purpose of bringing him before a court, in execution of the order of a court, or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary, to prevent his committing a criminal offence;
- (d) in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;
- (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care, treatment or the protection of the community; or
- (f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria, of any person or the taking of proceedings related thereto:

Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.

- (2) Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.
- (3) Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in a language that he understands) of the facts and grounds of his arrest or detention.
- (4) Any person who is arrested or detained in accordance with subsection (1) (c) of this constitution, shall be brought before a court of law within a reasonable time, and if he is not tried within a period of –
  - (a) two months from the date of his arrest or detention, in the case of a person who is in custody or is not entitled to bail; or
  - (b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.
- (5) In subsection (4) of this constitution, the expression **“a reasonable time”** means –
  - (a) In the case of an arrest or detention in any case where there is a court of competent jurisdiction within a radius of forty kilometres, a period of one day; and

- (b) In any case, a period of two days or such longer periods as in the circumstances may be considered by the court to be reasonable.
- (6) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, **“the appropriate authority or person”** means an authority or person specified by law.
- (7) Nothing in this section shall be construed –
  - (a) in relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion, of having committed a capital offence; and
  - (b) as invalidating any law by reason only that it authorises the detention for a period not exceeding three months of a member of the armed forces of the Federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the Federation or the Nigeria Police Force, in respect of an offence punishable by such detention of which he has been found guilty.

**SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO FAIR HEARING):**

- (1) In 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 tribunal established by law and constituted in such manner as to secure its independence and impartiality.
- (2) Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or authority, power to determine questions arising in the administration of a law that affects or may affect the civil rights and obligations of any person, if such law –
  - (a) provides for an opportunity for the persons whose rights and obligations may be affected to make representations to the administering authority before that authority makes the decision affecting that person; and
  - (b) contains no provision making the determination of the administering authority, final and conclusive.
- (3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public.
- (4) Whenever any person is charged with a criminal offence, he shall, unless the charge

is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal:

Provided that –

- (a) a court or such tribunal may exclude from its proceedings persons other than the parties thereto or their legal practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of eighteen years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity will be contrary to the interests of justice;
  - (b) if in any proceedings before a court or such a tribunal, a Minister of the Government of the Federation or a commissioner of the government of a State satisfies the court that, it would not be in the public interests for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.
- (5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this Section shall invalidate any law only by the reason that the law imposes upon any such person the burden of proving particular facts.

- (6) Every person who is charged with a criminal offence shall be entitled to –
- (a) be informed promptly in the language that he understands and in detail, of the nature of the offence;
  - (b) be given adequate time and facilities for the preparation of his defence;
  - (c) defend himself in person or by legal practitioners of his own choice;
  - (d) examine, in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and
  - (e) have, without payment, the assistance of an interpreter, if he cannot understand the language used at the trial of the offence.
- (7) When any person is tried for any criminal offence, the court or tribunal shall keep a record of the proceedings and the accused person or any other persons authorised by him in that behalf shall be entitled to obtain copies of the judgement in the case, within seven days of the conclusion of the case.
- (8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no



penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

- (9) No person who shows that he has been tried by any court of competent jurisdiction, or acquitted, shall again be tried for that offence, or for a criminal offence having the same ingredients as that offence, save upon the order of a superior court.
- (10) No person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.
- (11) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.
- (12) Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law; and in this subsection, **“a written law”** refers to an Act of the National Assembly or Law of a State, a subsidiary legislation or instrument under the provisions of a law.

#### **SECTION 37 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO PRIVATE AND FAMILY LIFE):**

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

#### **SECTION 38 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION):**

- (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 of others, and in public or private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.
- (2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance, if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parents or guardian.
- (3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination, in any place of education maintained wholly by that community or denomination.
- (4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.

**SECTION 39 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (RIGHT TO FREEDOM OF EXPRESSION OF THE PRESS):**

- (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.
- (2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

- (3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society –
  - (a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematographic films; or
  - (b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or other Government security services or agencies established by law.

**SECTION 40 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (RIGHT TO PEACEFUL ASSEMBLY AND ASSOCIATION):**

Every person shall be entitled to assemble freely and associate with other persons, and in particular, he may form or belong to a particular 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.

**SECTION 41 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (RIGHT TO FREEDOM OF MOVEMENT):**

- (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 thereto or exit therefrom.

- (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 a 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 and such other country in relation to such matter.

**SECTION 42 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO FREEDOM FROM DISCRIMINATION):**

- (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 function 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 other 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 with the appointment of any person to any office under the State or as a member of the armed forces of the Federation or a member of the Nigeria Police Force or to an office in the service of a corporate body established directly by any law in force in Nigeria.

**SECTION 43 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RIGHT TO ACQUIRE AND OWN IMMOVABLE PROPERTY ANYWHERE**

## **IN NIGERIA):**

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

### **SECTION 44 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (COMPULSORY ACQUISITION OF PROPERTY):**

- (1) No immovable 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 law that, among other things –
  - (a) requires the prompt payment of compensation therefor; and
  - (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.
- (2) Nothing in subsection (1) of this section shall be construed as affecting any general law –
  - (a) for the imposition or enforcement of any tax, rate or duty;
  - (b) for the imposition of penalties or forfeiture of breach for any law, whether under civil process or after conviction for an offence;
  - (c) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising from contracts;
  - (d) relating to the vesting and administration of property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind or deceased persons, and of corporate or unincorporated bodies in the course of being wound-up;
  - (e) relating to the judgements or orders of court;
  - (f) providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;
  - (g) relating to enemy property;
  - (h) relating to trusts and trustees;
  - (i) relating to limitation of actions;
  - (j) relating to the property vested in bodies corporate directly established by any law in force in Nigeria;
  - (k) relating to the temporary taking of possession of property for the purpose of any

examination, investigation or enquiry;

- (l) providing for the carrying out of work on land for the purpose of soil-conservation;
  - (m) subject to the prompt payment of compensation for damage to buildings, economic trees and crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.
- (3) Notwithstanding the forgoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial and the Exclusive Economic Zone of Nigeria, shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

#### **SECTION 45 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (RESTRICTION AND DEROGATION FROM FUNDAMENTAL RIGHTS):**

- (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 defence, public safety, public order, public morality or public health; or
  - (b) for the purpose of protecting the rights and freedom of other persons.
- (2) An Act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such act during any period of emergency, save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorise any derogation from the provisions of section 33 of this Constitution, except in respect of death resulting from acts of war, or authorise any derogation from the provisions of section 36 (8) of this Constitution.

- (3) In this section, a **“period of emergency”** means any period during which there is in force, a Proclamation of a state of emergency declared by the President in exercise of the powers conferred on him, under section 305 of this Constitution.

**SECTION 46 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (SPECIAL JURISDICTION OF HIGH COURT AND LEGAL AID):**

- (1) Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him, may apply to a High Court in that State for redress.
- (2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of the provisions of this section, and may make orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement within that State, of any right to which the person who makes the application may be entitled under this Chapter.
- (3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section.
- (4) The National Assembly –
  - (a) may confer upon any High Court, such powers, in addition to those conferred by this section, as may appear to the National Assembly to be necessary or desirable, for the purpose of enabling the court more effectively, to exercise the jurisdiction conferred upon it by this section; and
  - (b) shall make provisions –
    - (i) for the rendering of financial assistance to any indigent citizen of Nigeria, where his right under this Chapter has been infringed, or with a view to enabling him engage the services of a legal practitioner to prosecute his claim, and
    - (ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for legal or financial aid is real.

**CHAPTER VIII OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (FEDERAL CAPITAL TERRITORY, ABUJA, AND GENERAL  
SUUPLEMENTARY PROVISIONS):**

**PART II (MISCELLANEOUS PROVISIONS):**

**SECTION 305 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(AS AMENDED) (PROCEDURE FOR DECLARATION OF STATE OF EMERGENCY):**

- (1) Subject to the provisions of this Constitution, the President may by instrument published in the Official Gazette of the Government of the Federation, issue a Proclamation of a state of emergency in the Federation or any part thereof.
- (2) The President shall immediately after the publication, transmit copies of the Official Gazette of the Government of the Federation, containing the Proclamation including

the details of the emergency, to the President of the Senate and the Speaker of the House of Representatives, each of whom shall forthwith, convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation.

- (3) The President shall have power to issue a Proclamation of a state of emergency, only when -
  - (a) the Federation is at war;
  - (b) the Federation is in imminent danger of invasion or involvement in a state of war;
  - (c) there is actual breakdown of public order and public safety in the Federation or any part thereof, to such extent as to require extraordinary measures to restore peace and security;
  - (d) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to avert such danger;
  - (e) there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation;
  - (f) there is any other public danger which constitutes a threat to the existence of the Federation; or
  - (g) the President receives a request to do so in accordance with the provisions of subsection (4) of this section.
- (4) The Governor of a State may, with the sanction of a resolution supported by two-thirds majority of the House of Assembly, request the President to issue a Proclamation of a state of emergency in the State when there is in existence within the State, any of the situations specified in subsection (3) (c), (d) and (e) of this section, and such situation does not extend beyond the boundaries of the State.
- (5) The President shall not issue a Proclamation of a state of emergency in any case to which provisions of subsection (4) of this section apply, unless the Governor of the State fails to issue such Proclamation.
- (6) A Proclamation issued by the President shall cease to have effect –
  - (a) if it is revoked by the President by instrument published in the Official Gazette of the Government of the Federation;
  - (b) if it affects the Federation or any part thereof and within two days when the National Assembly is in session, or within ten days when the National Assembly is not in session, after its publication, there is no resolution supported by two-thirds majority

of all the members of each House of the National Assembly approving the Proclamation;

(c) after a period of six months has elapsed since it has been in force:

Provided that the National Assembly may, before the expiration of six months aforesaid, extend the period for the Proclamation of the state of emergency to remain in force from time to time for a period of six months by resolution passed in like manner; or

(d) at any time after the approval referred to in paragraph (b) or the extension referred to in paragraph (c) of this subsection, when each House of the National Assembly revokes the Proclamation by a simple majority of all the members of each House.

# DUTIES

Indira Gandhi stated that, “people tend to forget their duties but remember their rights”. The term “duty” is derived from the word “due”, which means to owe someone. It is a term that conveys moral commitment to someone or something. Duties are actions expected of citizens. They include:

- (1) **OBEDIENCE TO THE LAW:** Citizens are expected to obey the laws of their country. When obedience is practical and not theoretical, living peacefully with others is possible. Laws are expected to be obeyed for, for the enhancement of peace and order in the society.
- (2) **PROTECTION OF PUBLIC PROPERTY:** Citizens are expected to protect public property which belong to the government. Some citizens vandalise public property and this is bad. Although it is not constitutionally stated who should take care of public property, all citizens have the collective responsibility of doing so.
- (3) **LOYALTY:** This is one of citizens’ duty to their country. Citizens of a particular country must be ready to answer their nation’s call at all times. You do not only owe allegiance to your country, but also to your community. You must support programmes that will be beneficial to other citizens of your country.
- (4) **PAYMENT OF TAXES:** When we talk of taxes, some citizens tend to shy away from this. Many citizens know that it is their duty to pay their taxes, but they do not. Taxes form citizens’ quota to nation-building. It is ironical that non-tax payers are the ones that usually complain about the infrastructural deficit in their countries.



**CHAPTER II OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY):**

**SECTION 24 OF 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) (DUTIES OF THE CITIZEN):**

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) 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.

# REFERENCES:

- 1: THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED).
- 2: OLUSESAN, O. AND OLU A. (2006). RIGHTS. LAGOS: THRONE-OF-GRACE LIMITED (PUBLISHERS).