AN APPRAISAL OF THE REGULATION OF CITIZENSHIP IN NIGERIA UNDER THE 1999 CONSTITUTION

MADUBUIKE-EKWE, N.J. *
Faculty of Law, Benson Idahosa University, Benin, Edo State, Nigeria.

ABSRACT
This article begins with an analysis of the concept of citizenship and nationality under international law, discusses the various ways by which Nigerian citizenship may be acquired: by birth, by registration and by naturalization. It also examines the methods by which Nigerian citizenship may be lost: by acquisition or retention of dual citizenship, by renunciation and by deprivation. The paper notes that these rules are in line with the general principles of international law, which discourages statelessness. The paper also notes that citizenship by naturalization is very cumbersome to acquire and recommends the review of the requirements for citizenship by registration to extend its acquisition to non-Nigerian men who are married to Nigerian women in line with the provisions of the Constitution which prohibits discrimination on grounds of ethnic group, place of origin, sex, religion or political opinion'.

Key words: *Citizenship, nationality, birth, marriage, naturalization, dual citizenship, deprivation.*

1.0 INTRODUCTION
The aim of this paper is to analyze the provisions of the constitution of the Federal republic of Nigeria, 1999, as amended regulating citizenship in Nigeria. Citizenship refers to a person who under the constitution and the laws of a particular state is a member of the political community owing allegiance to the community and being entitled to enjoy all its civil rights and protections. The person is a member of the civil state entitled to all its privileges.[1] In *Herriot v. City of Seattle*[2], 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'.

***N.J. Madubuike-Ekwe, LL.B(UNN), BL, LL.M (IFE), SJD (Golden Gate University, San Francisco, USA), Senior Lecturer, Faculty of Law, Benson Idahosa University, Benin, Edo State, Nigeria. Email-** jekwe@biu.edu.ng, or ndubuisi e@hotmail.com

[1] Garner, B. A, (ed.) , *Black's Law Dictionary*, 9th ed. (Minnesota, West Group, 2013); See Inegbedion, N.A and Odion, J.O, *Constitutional Law in Nigeria*, 2nd ed. (Benin; Ambik Press, 2011) p. 168; Nchi, S.I., *The Nigerian LawDictionary* (Zaria: Tamza Publishing Co. Ltd., 1996) p.69.

[2] 81 Wash. 2d48, 500 p. 2d. 101, 109.

According to *Ewelukwa*, "the concept of citizenship commenced with the development of man's ideas about society, state and politics. It denotes their membership of a political community otherwise known as a state."[3] Shaw notes that "the concept… is important since it determines the benefits to which persons may be entitled and the obligations (such as conscription) which they must perform."[4]

Thus a citizen is the recipient of some basic rights provided for in the constitution and the 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.[5] Citizenship cannot be shifted, cancelled or diluted at the will of a federal government, state or any other governmental unit.[6]

A citizen of a country is one that is accorded the right to belong to it by the laws of the country. A State like other associations has its membership as well as rules and conditions for acquiring or losing the status and rights of membership. Nowadays, membership of a State or citizenship is in many cases thrust upon people at birth on the principles of descent (*jus sanguinis*) or the rule of place of birth (*jus soli*).[7] Citizenship is often granted to such alien as are qualified and request it.[8] It should be noted that citizenship refers to only natural persons such as human beings not artificial persons, such as companies or industries.[9] Under the Constitution of the Federal Republic of Nigeria, 1999, citizenship can be acquired in three ways, by birth, by registration and by naturalization.[10]

This paper is divided into five parts. Part II highlights the concept of citizenship and nationality in International Law and the need for each State to determine under its domestic laws the persons to be deemed its nationals. Part III discusses the various ways by which citizenship may be acquired in Nigeria. Part IV examines the methods by which citizenship may be lost in Nigeria and the power of the President to make rules and regulations regarding the issues of citizenship. Part V concludes the paper.

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[3]Ewelukwa, D.I.O., Acquisition and Loss of Citizenship in Nigeria, *Nigerian Current Law Review*(1982), p. 216

[4] Shaw, M. N., *International Law* 6th ed. (London, Cambridge University Press, 2008) p. 660

[5]Mowoe, K. M., *Constitutional Law*, (Lagos, Malthouse Press Limited, 2008) p.257

[6]*Ibid*.;Afroyim v. Rusk 387 U.S. 253 1967; *Shugaba v. Minister of Internal Affairs and Ors*. (1982) 3 NCLR 1.

[7]Umozurike, U.O., *Introduction to International Law*, 3rd ed., (Ibadan, Spectrum Books Limited, 2005) p.156; See Ewelukwa, supra, note 3.

[8]Ewelukwa, *ibid*.

[9]Mowoe, supra, note 5.

[10]Sections 25, 26 and 27 of the Constitution of the Federal republic of Nigeria, 1999, as Amended. (CFRN)

2.0 Citizenship and Nationality in International Law

Nationality is important in the context of State responsibility in International law. Every State possesses sovereignty and jurisdictional powers[11]. Since every State must consist of a collection of individual human beings on behalf and for the benefit of whom rules of international law, including treaties and conventions are made, it is essential that a link between the two be legally established.[12] International Law is, therefore, generally concerned to have the precise definition of the links between the States and individuals as the ultimate beneficiaries of its rules.[13]That link connecting the state and the people it includes in its territory is provided by the concept of nationality.

Nationality may be defined as the status of belonging to a State for certain purposes of international law.[14] It determines the benefits to which persons may be entitled and the obligations which they must perform. As a general rule, international law lays down no definition of nationality. A State is free to determine who are to be deemed its nationals, except perhaps in so far as it affects other States.[15]Even under customary international law, a state's discretion is not totally unlimited; for instance, it is obvious that international law would not accept as valid a British law which imposed British nationality on all the inhabitants of France.[16]

Article 1 of the 1930 Hague Convention on the Conflict of Nationality Laws provides that:

> It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom and the principles of law generally recognized with regard to nationality.[17]
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> It is important for individuals to be properly and precisely linked by bonds of citizenship with States so as to establish which state is entitled to afford diplomatic protection to specific individuals or to claim damages for wrongs or injuries done to those individuals and which persons are entitled to claim benefits under a treaty signed

[11]Shaw, supra note 4, p. 659.
[12] Ibid.
[13]Ewelukwa, supra note 3.
[14]Malanczuk,P.,*Akehurst's Modern Introduction to International Law*, 7th ed., (London; Routledge, 1997) p.263
[15]See Article 4 of the ILC Draft Articles on Diplomatic Protection, 2006 which states that nationality is acquired in "accordance with the law of that State, by birth, descent, naturalization, succession of states or in any other manner not inconsistent with international law."
[16]Malanczuk, supra, note 14.
[17] 179 L.N.T.S. 89; Shaw, supra note 4, p. 660.

between any two or more States.[18] As the International Court of Justice noted in the *Nottebohm* case:

Nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties. It may be said to constitute the juridical expression of the fact that the individual upon who it is conferred, either directly by law or as a result of an act of the authorities, is in fact more closely connected with the population of the state conferring nationality than with that of any other State.[19]

Thus Nationality is a manifestation of the link between the person and the State granting nationality and recognition that the person was more closely connected with that State than with any other.[20] A State will only espouse a claim on behalf of an individual if the latter is a national at the time when the injury occurs and at the time when the claim is presented.[21]

Citizenship and nationality are often used interchangeably as synonymous terms but they are in many respects different from each other.[22]*Ewelukwa* notes that 'nationality strictly means membership of a racial group identified as descendants of a common progenitor, but it may also mean membership of a political community or State regardless of whether or not the member enjoys full civic rights.'[23] In the United States before the Civil War, the blacks were nationals but not citizens entitled to full political rights.[24] Aborigines in Australia, Canada and New Zealand though nationals are not necessarily citizens; even where classified as citizens they do not necessarily enjoy full civic rights.[25]Similarly, the Rohingya in Myanmar and the Roma in Slovenia are not considered citizens of their countries respectively.[26]

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[18] According to Oppenhiem, nationality is the main pipeline that carries the benefits of the law of nations to individuals. Only a limited amount of benefits of international law normally accrue to stateless persons, and when wronged or injured by any of the states such a person has no means of claiming the protection of, or any redress afforded by, the law of nations. "On the other hand, if individuals who possess nationality are wronged abroad, it is, as a rule, their home state only and exclusively which has a right to ask for redress, and these individuals themselves have no such rights". Oppenhiem, *International Law,* Vol. I, p.640 (8th ed., 1955) cited in Ewelukwa, supra note 3.

[19]Nottebohm case (Second Phase), I.C.J. Rep. 1955 p. 4 at 23.; See also Rebecca M.M. Wallace and Olga Martin-Ortega, International Law, 7th ed., (London: Sweet & Maxwell; 2013) p.223

[20] Shaw, supra note 4, p. 661

[21] Wallace and Martin-Ortega, supra note 17.

[22]Ewelukwa, supra note 3, p. 218.

[23]Ibid.

[24]Ibid.

[25]Civic rights include voting rights etc., See Ewelukwa, ibid.

[26]Caroline Bettinger-Lopez and Bassina Farbenblum, "The Human Rights of Non-Citizens", AJIL, October 2010, Vol. 104, No. 4 p.716.

Thus, it is for each State to decide who among the nationals should be citizens but such a distinction does not generally affect the rights of each state to protect the nationals abroad.[27]Therefore international law views nationality and citizenship as alternative terms for membership of a political community, while municipal laws distinguish the two. In most countries nationality means membership of any of the constituent ethnic groups, while citizenship denotes membership of the State comprising the groups.[28] Some municipal laws distinguish between citizens and those who are under the diplomatic protection of a given state. For example, English Law distinguishes between the citizens of the United Kingdom and Colonies and the British protected persons. International Law does not recognize that distinction, but treats the two groups of persons as British nationals subject to the diplomatic protection of the United Kingdom.[29]

Indeed, the modern tendency is for international law to be increasingly stringent in restricting the discretion of States in matters of nationality. In fact, the nationality laws of most States often have certain features in common. The commonest ways to acquire nationality are: by birth, marriage, adoption or legitimation, naturalization and by change of sovereignty.[30]Additionally, the commonest ways in which nationality may be lost are:by release, acquisition of a new nationality, deprivation, and change of sovereignty.[31]

3.0 Acquisition of Nigerian Citizenship under the 1999 Constitution

The acquisition of citizenship in Nigeria is governed by the Constitution of the Federal Republic of Nigeria, 1999, as amended. Under the Constitution, citizenship can be acquired in three ways; by birth[32], registration[33] and naturalization.[34] The Constitution does not reserve citizenship exclusively to persons born by a Nigerian citizen. Foreigners may acquire it, provided they go through the processes of registration or naturalization. By going through the processes, a foreigner is formally adopted as a citizen fully clothed with all the rights, privileges and benefits of

[27]See Article 3 of theILC Draft Articles on Diplomatic Protection 2006 which provides that "the State entitled to exercise diplomatic protection is the state of nationality." See also, Shaw, supra note 4, p. 814; Umozurike, supra note 7, p. 155

[28]Ewelukwa, supra, note 3.

[29]Schwarzenberger, G.,*A Manual of International Law*, 5th ed. (London, Stevens & Sons, 1967) 142.

[30]Umozurike, supra note 7, p.156-7; Malanczuk, supra note 14

[31]Malanczuk, ibid.

[32]Section 25 of the Constitution of the Federal Republic of Nigeria, 1999, as amended.

[33] Section 26, CFRN, 1999

[34]Section 27, CFRN, 1999.

citizenship.[35] According to Chief Justice Marshall of the United States Supreme Court, such a "naturalized citizen becomes a member of the society, possessing all the rights of a native citizen and standing, in the view of the constitution, on the footing of a native."[36]In Nigeria, the terms "Citizenship" and "nationality" are used interchangeably, but the term "Citizenship" (or Citizen) is more commonly used, while "nationality" is more commonly used on official documents and forms.

4.0 Citizenship by Birth

Section 25 of the Constitution recognizes three classes of citizens by birth. Firstly, 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 he and one of his parents or grandparents were born in Nigeria.[37]

It should be noted that the Constitution did not specify which parent or grandparent a child can claim through and the words 'either' and 'any' used in the section suggests that a person can claim through anyone of them.[38] Thus in *Shugaba v. Minister of Internal Affairs*[39] the Applicant was deported from Nigeria on the orders of the Minister of Internal Affairs on the grounds that he was a foreigner from Chad Republic and a security risk. The court held that the Applicant could claim Nigerian citizenship through his mother who was a *Kanuri*, which is "a community indigenous to Nigeria" even though it was also established as a fact that his father migrated to

[35]Ewelukwa, supra note 3, p.222; See Also Inegbedion, N.A., and Odion, J.O., *Constitutional Law in Nigeria*, 2nded. (Benin; Ambik Press, 2011) p. 168; **Okeke, G.N. and Okeke, C.E**., "The Acquisition of Nigerian Citizenship by Naturalization: An Analytical Approach", *IOSR-JHSS*,(Jan-Feb. 2013) Volume 8, Issue 2 pp.58-63 at *http://www.iosrjournal.org* Accessed 30/03/2016

[36]Osborn v. Bank of the United States, 9 Wheat (22 U.S.) 737, 827 (1824), See also Knauer v. U.S. 328, U.S. 654, 658 (1964) where the U.S Supreme Court stated that " Citizenship obtained through naturalization is not a second-class citizenship… it carries with it the privilege of full participation in the affairs of our society, including the right to speak freely, to criticize officials and administrators, and to promote changes in our laws including the very charter of our government."

[37]Section 25(1)(a) of CFRN; According to Mowoe, "The purpose of this provision is no doubt to take care of the situation of persons who used to belong to the Colony and Protectorate of Nigeria, but were by October 1, 1960 the date of independence, no longer part of Nigeria. Thus section 31 has the effect of transporting for example a parent or grandparent born in 1930 to 1960, for purposes of determining their citizenship. If such a parent or grandparent would still be regarded as a Nigerian at that date, then the child or grandchild can claim citizenship through him or her under this provision. If however such a parent or grandparent was a member of the colony and protectorate of Nigeria, which was then part of the United Kingdom, but was no longer a member of the territory at independence because his or her community became for example part of Southern Cameroon, then such a child cannot claim citizenship under this section." Mowoe, K.M., *Constitutional Law in Nigeria*, (Lagos; Malthouse Press Limited, 2008) p.258-9.

[38] Ibid.

[39] (1982) 3 NCLR 1.

Nigeria from a neighboring country.[40]Therefore the court held that he had immunity from deportation.

However, in *Chediak v. Permanent Secretary, Ministry of Internal Affairs*,[41] The plaintiff, a Lebanese national both of whose parents were Lebanese, but who had resided in Nigeria and had given birth to him in Nigeria, took out an originating summons at the Lagos High Court asking for a declaration that he is a citizen of Nigeria. In dismissing the plaintiff's claim, the learned trial judge held that by virtue of Section 23(1) of the 1979 which is similar to Section 25(1) of the 1999 Constitution plaintiff ought to have adduced evidence to show that either of his parents or grandparents belonged to a community indigenous to Nigeria. In his affidavit, it was disclosed that his parents were Lebanese.[42]

The second category of citizens by birth includes every person born in Nigeria after the date of independence "either of whose parents or any of whose grandparents is a citizen of Nigeria."[43] This means that such a parent or grandparent must satisfy the conditions in section 31 of the Constitution, which is that they must qualify as Nigerians at the date of independence i.e. the 1st day of October, 1960.[44]*Ewelukwa*opines that "where the birth occurred before the parents became citizens by registration or naturalization, it seems that the child would not become citizen by birth; he was born an alien and should be naturalized or registered as a citizen."[45]Therefore it is important that the parent or grandparent was a Nigerian citizen on the 1st day of October, 1960.

The third category of citizens by birth includes every person born outside Nigeria "either of whose parents is a citizen of Nigeria."[46]Thus where a person is born outside Nigeria, the period or date of birth is irrelevant but the person can only claim citizenship through either of his parents.[47] The person would become a Nigerian citizen regardless of the wishes of the parents or his status under the law of the place of birth.

Generally, citizenship by birth has some privileges which are not enjoyed by the other classes of citizens. While citizenship by registration or naturalization may easily be

[40] See Inegbedion & Odion, supra note 34 p. 169-70.
[41] (1980) E.N.L.R. 143; See also Aduba, N.J. and Oguche, S., *Key Issues in Nigerian Constitutional Law*, (Abuja; Nigerian Institute of Advanced Legal Studies, 2014) p. 324.
[42]Aduba, Ibid.
[43] Section 25 (1)(b), CFRN, 1999
[44] Section 25 (2), CFRN, 1999
[45]Ewelukwa, D.I.O., Acquisition and Loss of Citizenship in Nigeria, (1982*) N.C.L. Rev*, p. 224.
[46] Section 25(1)(c) , CFRN, 1999.
[47] This is otherwise known as the principles of *jus sanquinis* (descent).

withdrawn or cancelled, citizenship by birth cannot be deprived under any conditions by the President.[48]Nigerian citizens by birth can only contest some political posts such as the president or vice-president of Nigeria,[49] governor or deputy governor of a state.[50]

5.0 Citizenship by Registration

Two classes of people may acquire citizenship by registration in Nigeria:[51] (a) any woman who is or has been married to a citizen of Nigeria; or (b) every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria.[52] An applicant must satisfy the President that he has a good character, has shown a clear intention of his desire to be domiciled in Nigeria, and has taken the Oath of Allegiance to Nigeria prescribed in the Seventh Schedule to this Constitution.[53]

Therefore, this section covers only non-Nigerian women who are or have been married to Nigerians and does not cover non-Nigerian men married to Nigerians, whose only option would be to naturalize.[54] The Constitution places some restrictions on the rights and privileges of a Citizen by registration. A Nigeria citizen by registration cannot, within ten years of such registration, hold any elective or appointive office under the constitution, 'notwithstanding anything in chapter IV'.[55] This quoted phrase, according to *Mowoe*, "suggests the fact that such a citizen cannot claim any of the fundamental rights provisions of the constitution in such a way as to defeat the purpose of this reservation in relation to citizenship by registration."[56]Also, such a citizen cannot hold the office of the president and vice president of Nigeria[57] or governor and deputy governor of a state.[58]

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[48] Section 30(1) &(2), CFRN, 1999.
[49]Section 131 and 142(2), CFRN, 1999.
[50]Section 177 and 187(2), CFRN, 1999.
[51]Section 26 (2)(a) and(b), CFRN, 1999.
[52]Ibid.
[53]Section 26 (1)(a),(b) and (c), CFRN, 1999.
[54]See *Mowoe*, supra note 36; **Okeke, G.N., and Okeke, C.E., "The Acquisition of Nigerian Citizenship by Naturalization: An Analytical Approach,"*IOSR-JHSS* vol. 8, Issue 2 (Jan-Feb. 2013) p.62 (stating that** the constitutional provision limiting acquisition of a Nigerian citizenship by registration only to alien women is discrimatory because an alien man married to a Nigerian woman does not have the same privilege accorded to him.)
[55]Section 307, CFRN, 1999;*Chapter IV* of the CFRN, 1999 contains the Fundamental Rights provisions.
[56]Mowoe, supra note 36, p. 261.
[57]Section 131 and 142(2), CFRN, 1999.
[58]Section 171 and 187(2), CFRN, 1999.

The Constitutional provision limiting acquisition of citizenship by registration only to married women has been described, by some authors, as discriminatory against men.[59] In other words, while a foreign-born woman married to a Nigerian man is qualified to apply for citizenship by registration, a foreign-born man married to a Nigerian woman does not have the same privilege accorded to him. This may be contrary to the provisions of section 42 of the constitution which prohibits discrimination against any Nigerian citizen on grounds of "… ethnic group, place of origin, sex, religion or political opinion."[60]

6.0 Citizenship by Naturalization

Naturalization refers to the situation where a foreigner is given the nationality of a State upon his request.[61]A person may become a Nigerian citizen by naturalization. The requirements are more stringent than those of citizenship by registration.

A person who wishes to acquire Nigerian Citizenship through naturalization must apply to the President for the grant of a certificate of naturalization.[62]Provided that he can satisfy the president that he is of full age and capacity, has a good character and has shown a clear intention to be domiciled in Nigeria. In addition, the Governor of the state where he is or proposes to reside must certify that he is acceptable to the local community in which he intends to live permanently and has been accepted into their way of life.[63] The person must satisfy the President that he has made or is capable of making useful contribution to the advancement; progress and well-being of Nigeria.[64]The applicant must also, satisfy the President that he has taken the Oath of allegiance prescribed in the Seventh schedule to this constitution and that immediately preceding the date of his application, he has either resided in Nigeria for a continuous period of fifteen years, or for a continuous period of twelve months, and during the twenty years immediately preceding the twelve months, he has resided in Nigeria for periods amounting in the aggregate to not less than fifteen years.[65]

Naturalization is not a right but a privilege, which may or may not be granted by the President in his discretion even to an applicant who satisfied all the conditions laid down by the Constitution.[66]Therefore, the power of the President is virtually absolute

[59]Okeke & Okeke, supra note 51.
[60]Section 42(1) CFRN, 1999.
[61]Malanczuk, supra, note 14.
[62]Section 27(1), CFRN, 1999.
[63] Section 27(2)(d), CFRN, 1999; Ewelukwa, supra, note 42.
[64] Section 27(2)(e) CFRN, 1999.
[65] Section 27(2)(f),(g), CFRN, 1999.
[66]Ewelukwa, supra note 42, p. 226; See also Aduba & Oguche, supra note 41, p. 327-8.

and not controllable by judicial process; nor is it enforceable by *mandamus*.[67]Since the Constitution does not state how an applicant is to satisfy the President on all the above issues, it seems that both oral and documentary evidence may be acceptable as proofs. The applicant is subject to the same disability as a citizen by registration and cannot hold any elective or appointive office within ten years of the grant of the certificate of naturalization.[68]

It should be noted that Section 27 of the Constitution only provides the minimum conditions which must be satisfied by any person applying for naturalization. It does not enjoin the President to consider an application or to grant a certificate upon satisfaction of the prescribed conditions. On the other hand, the President cannot constitutionally waive any of the prescribed conditions and grant the certificate to an unqualified applicant.[69]

7.0 Loss of Citizenship

While Nigerian citizenship may be acquired voluntarily by registration or by naturalization or compulsorily by birth, it may be lost voluntarily by dual or multiple citizenship, by renunciation or by deprivation.

Dual Citizenship

In the past, dual citizenship was regarded as undesirable in Nigeria; hence the acquisition of a new nationality automatically entailed loss of Nigerian citizenship. Under the 1979 Constitution, any citizen of Nigeria who acquired the citizenship of another country automatically forfeited the Nigerian citizenship; except such a person was a citizen by birth and renounced his other citizenship by the age of twenty one, or within one year of the coming into force of the 1979 Constitution.[70]

However under Section 28 of the 1999 Constitution, "…a person shall forfeit his Nigeria 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." Therefore, a citizen by birth can acquire the citizenship of another country without forfeiting his Nigerian citizenship. Thus, the 1999 constitution impliedly permits a person to have dual citizenship. Similarly, citizens by registration and naturalization can retain their citizenship by birth and

[67]On Order of "*mandamus*", see Malemi, E., *The Nigerian Constitutional Law*, (Lagos; Princeton Publishing Co., 2010) p.321.; See also, *Shitta-Bey v. Federal Public Service Commission* (1981) 1 SC 40, *Fawehinmi v Akilu* (1987) 4 NWLR pt.67, p. 797 SC, *The Director, State Security Service v. Olisa Agbakoba* (1999) 3 NWLR pt. 595, p. 314 SC

[68]Section 307, CFRN, 1999.

[69]Ewelukwa, supra, note 42; *Proceedings of the Constituent Assembly*, vol. 3, p.2451-52

[70]Section 26 of the 1979 Constitution. See also Mowoe, K.M., *Constitutional Law in Nigeria*(Lagos; Malthouse Press Limited; 2008) p. 263

acquire Nigerian citizenship. However, any registration or naturalization of a citizen is "conditional upon effective renunciation of citizenship or nationality of another country within twelve months of the date of such registration or naturalization".[71]According to Ese Malemi:

The Nigerian 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. 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.[72]

Thus for e.g., a natural born citizen of State A , while living in State B naturalizes as a citizen of State B. She marries a Nigerian man and relocates to Nigeria. She acquires Nigerian citizenship by registration. Hence she is a citizen of State A, B and Nigeria. To keep her Nigerian citizenship, she must renounce her citizenship of State B within twelve months from the date of such registration. This is because she is not a citizen of State B by birth.

A citizen by registration or naturalization who voluntarily acquires the citizenship or any other country or has made a declaration of allegiance to such a country will be disqualified from election into the National Assembly,[73] State House of Assembly,[74] the Office of the President,[75] and the Office of Governor of a State.[76]

Renunciation

The Constitution accords to every Nigerian citizen of full age[77] the right to renounce his citizenship.[78] The applicant must make a declaration in the prescribed manner, and the declaration shall be registered, after which the person ceases to be a Nigerian citizen.[79] The President may, however, withhold the registration of such a declaration if the declaration is made during any war Nigeria is physically involved; or in his opinion, it is otherwise contrary to public policy.[80] The Constitution does not define the circumstances under which such a declaration would be regarded as being

[71]Section 28(2), CFRN, 1999; See Malemi, E., The Nigerian Constitutional Law (Lagos; Princeton Publishing Co., 2010) p. 217.

[72]Malemi, Ibid.;Aduba&Oguche, supra note 41, p. 328.

[73]Section 66(1) CFRN, 1999.

[74]Section 107(1) CFRN, 1999.

[75]Section 137(1) CFRN, 1999.

[76] Section 182(1) CFRN, 1999.

[77] Section 29(4) defines "full age" as the age of eighteen and above. Also, a married woman is deemed to be of full age.

[78] Section 29, CFRN, 1999

[79]Sction 29(2), CFRN, 1999.

[80]Section 29(3), CFRN, 1999.

contrary to public policy, but gives the President the discretion to determine it.[81]The validity of any registration or naturalization of a citizen is conditional upon his "effective renunciation of the citizenship or nationality" of another country within twelve months of the date of such registration or naturalization.[82] Renunciation of foreign citizenship must be express; it cannot be presumed, even if it is ineffective to terminate the citizenship.

8.0 Deprivation of Citizenship

The Constitution gives the President the power to deprive a registered or naturalized citizen of his Nigerian citizenship. A citizen by birth cannot be deprived of his citizenship either by a law or by executive action. He cannot be expelled from Nigeria nor refused entry thereto[83] and he is entitled as of right to a passport.[84] In Director *of State Security Services & Anor.v Olisa Agbakoba*,[85] the Supreme Court held that :

> Section 38(1) of the 1979 Constitution provides for the right to freedom of movement which includes the right of the citizen not to be expelled from Nigeria or be refused entry thereto or exit there from, the right to hold a passport, being ancillary to the right of egress from Nigeria, is therefore concomitant to the right of egress without which that right of egress becomes hollow and empty. Thus, it is justified of our courts to enforce the right to hold a passport.

Therefore, every Nigerian citizen is entitled to the right to hold a Passport and where the right is infringed upon may apply to the court for the enforcement of his fundamental rights to hold a passport.

The President can deprive a citizen by naturalization of his citizenship if he is satisfied that within seven years of his becoming naturalized, he has been sentenced to imprisonment for a term not less than three years.[86] This means that such a citizen cannot, constitutionally, be deprived of his citizenship for having been imprisoned several times within the said period if none of the terms of imprisonment exceeds three years even if in the aggregate he has been imprisoned for more than six years.

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[81]Ibid., See also, Mowoe, supra note 36, p. 264; On "discretion" generally, See Emiola, A., *Remedies in Administrative Law*, 2nd ed.(Ogbomosho; Emiola Publishers Limited, 2011) pp. 22-26,

[82]Section 28(2),CFRN, 1999.

[83]*Shugaba v. Minister of Internal Affairs* (1981)2 NCLR 459

[84]Ibid; See also, Ewelukwa, supra note 42.

[85] (1999) 3 NWLR (Pt. 595) 314 (SC) per Ogundare, J.S.C. at p. 356-7; See also Section 1(1) of the Passport (Miscellaneous Provisions) Act, Cap P1, Laws of the Federation of Nigeria, 2004. Which provides that 'it is an offence for any person, not being a citizen of Nigeria, to have, hold or be in possession of any Nigerian passport'; Inegbedion & Odion, supra note 34, p. 171.

[86]Section 30(1), CFRN, 1999.

The President can deprive both a naturalized and registered citizen of their Nigerian citizenship if he is satisfied from the record of proceedings of a court of law or other tribunal, or after due inquiry in accordance with regulations made by him[87], that the person has himself by act or speech to be disloyal towards the Federal Republic of Nigeria[88], or the person has, during any war that 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.[89]

It should be noted that the President's power though discretionary is not absolute; it is not to be abused or exercised arbitrarily or capriciously; it must be confined within its constitutional limits.[90] Citizenship cannot be validly withdrawn, abridged or cancelled except in the circumstances and by procedures prescribed by the Constitution. Hence, the President must act in good faith upon the grounds and conditions laid down by the Constitution.[91]

The President is not empowered to deprive a person of his citizenship when it 'appears' to him that the person no longer owes allegiance to the Federal Republic of Nigeria; definite limits are set to the type of materials on which he can legitimately act.[92]The President must have and consider the record of proceedings of a court or tribunal or else inquire or cause an inquiry to be held into the affairs of the naturalized or registered citizen concerned.[93] Such an inquiry must not be arbitrarily conducted but should follow the rules of procedure laid down for it by the President.[94]

Although the Constitution gives the National Assembly the power to make laws with respect to "citizenship, naturalization and aliens",[95] it is doubtful if in the exercise of that power the Assembly can validly enlarge the scope of the President's power beyond the limits set by Section 30(2) of the Constitution. In exercise of the said power the National Assembly may make a law to authorize the President to do whatever is necessary to give life and meaning to the express provision of the

[87] Section 30(2) CFRN, 1999.
[88] Section 30(2)(a) CFRN 1999.
[89] Section 30(2)(b)
[90]Ewelukwa, supra note, 42.
[91]Ibid.
[92]See *Adegbenro v. Akintola & Anor* (1962) 1 All N.L.R. 465, 476-77
[93]Section 30(2) CFRN, 1999.
[94]Section 32(1), CFRN, 1999. The power of the president to make regulations is an example of delegated legislation, and an exception to the doctrine of separation of powers., Malemi,E., *The Nigerian Constitutional Law*, (Lagos: Princeton Publishing Co., 2010) p.219.
[95]See item 9 on the Exclusive Legislatve List, CFRN, 1999.

Constitution, as by filling any gap or clearing any ambiguity or vagueness discovered therein.[96] The Legislature cannot constitutionally create new grounds for depriving the people of their citizenship, nor can they validly authorize the forcible expatriation of a citizen by birth. The grounds and procedure given by the Constitution for forcible expatriation should be taken to be exhaustive, leaving no room for the legislature or the executive to add more.[97]

Finally, the President has authority generally to make rules and regulations which are consistent with the constitutional provisions relating to issues of citizenship, and for carrying out such provisions. Therefore 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 information.[98]

8.0 Conclusion

Citizenship is well regulated by the constitution of the Federal of Nigeria, 1999 as amended. The article noted the three methods of acquisition of Nigerian citizenship and the methods by which Nigerian citizenship may be lost. However, the constitution, for some purposes, distinguishes between native and adopted citizens. For instance, while citizenship by registration and naturalization may easily be withdrawn or cancelled, citizenship by birth is permanent. Even when it is lost it is dormant and may be regained by reintegration. Unlike a registered or naturalized citizen, a Citizen by birth can contest for the office of the President of Nigeria or Vice President, Governor or Deputy Governor of a state.

Differences also exist between registered and naturalized citizens. The qualifications for the two are completely different; the requirements for naturalization are more cumbersome than those for registration. Moreover, the citizenship acquired by naturalization may be lost more readily than the one acquired by registration. Citizenship by Registration may be discriminatory against men, there is need to review the provisions and extend it to non-Nigerian men married to Nigerian women in line with Section 42 of the Constitution which prohibits discrimination.

Finally, it should be noted that, the rules and regulations discussed in this paper are in line with the general principles of international law which discourages statelessness.

[96] See Ewelukwa, supra note 42, p. 231.
[97] Ibid.
[98] Section 32(1) CFRN, 1999.