ECONOMIC CITIZENSHIP AND NATIONAL SWAPPING EXIGENCIES IN SPORTS; A QUEST FOR A LEGAL REMEDY TO ATHLETE-DRAIN IN AFRICA.

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Abstract

There is an incessant culture in sports that tends to promote the adoption of athletes from developing nations such as Africa to represent developed nations in international sports tournaments by baiting them with economic citizenship. This results in the athlete drain in Africa reducing the sporting competiveness of countries in Africa and the resource balance in a comparative analysis. This paper examined the existing theories of citizenship and the possibilities of any accommodating this sports culture. Existing international legal instruments were also evaluated to discover whether it permits this culture of economic citizenship by considering international sport organisations such as FIFA, International Olympic Committee, and international athletics federation and their subjective treatment of the subject. The right to renunciation of citizenship as a pre-condition to economic citizenship in sports was also examined. The legal regime of the status of a refugee vis-a-vis economic citizenship was also investigated. This paper recommends that representation of countries at sports tournaments should only be restricted to nationalities by birth or descent to reduce the indiscriminate athlete drain in Africa.

Key words; Economic citizenship, athlete- drain, renunciation of citizenship, Africa, refugee status.

(ii) Introduction

The term economic citizenship is a silent status employed by developed nations to midwife the voluntary acquisition of a second citizenship for the manifest value that can be potentially acquired from citizens of other countries for a collective objective for the developed nation. A manifest expression of economic citizenship is the particularly rampant and vicious activities in sports with developed countries commercialising the acquisition of their citizenship.

This strategy is due to the potential gains they will potentially possess from giving citizenship status to athletes of other country origins which are usually under developed to attract them to participate in international competitions for the developed countries because of the exhibited talent perceived in the athlete's previous demonstrations after representing the developing nation.

A more vicious commercialisation of this citizenship for a sports objective by sporting nations is the practice of national swapping where athletes clearly and visibly indicate their interest in exchanging their citizenship for the citizenship of another after competing in a sporting tournament for the developing country with the intent of citizenship abandonment of the previous citizenship

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This has resulted in excessive athlete drain in African countries where African talents are bought by the highest bidder developed countries. A legal solution is investigated and recommended in this paper.

(iii) Theories of Citizenship

There is a need to investigate whether theories of citizenship align or can possibly accommodate the marketisation of citizenship either by a country or the legitimisation of the economic switch by a citizen usually by birth. This is examined below;

(a) Liberal Citizenship

The theory of liberal citizenship focuses its attention on the citizen and emphasizes the equality and existence of rights that is inherently possessed by every citizen usually enshrined in their grundnorm and how these citizenship rights help the citizen achieve his aim and objective in the country where he or she is a citizen.[1]

Liberal citizenship is an active or inactive participation of citizens within a state adorned with universal application and possession of rights to all citizens with great respect for the state of personhood of the citizen as opposed to other recognised legal natural persons within the state such as foreigners, non-nationals and even artificial persons. In other words, liberal citizenship is individualism personified protecting the individual citizenship rights to personal goals, developments from actual or pseudo state interference.[2]

There is a clear indication that the liberalised theory of citizenship glorifies the office of the citizen to achieve his or her personal goals over state interference but in the context of the national swapping in sports, it seems unclear as to whether the goal of national swapping in sports will be a personal objective of a citizen can be accommodated under this theory barring state interference.

There are arguments that the personal ambitions represented by this theory are those that do not manifestly or subtly affect communual goals such as retention of sport talents to participate in international sporting tournaments but since a citizen is not in most jurisdictions to not renounce his or her citizenship to acquire another, it may seem that the liberal theory of citizenship can be a platform to accommodate sports athlete in Africa to market their talents to developed nations since it is their desired goal and objective devoid of state interference.

(b) Communuterianism

Scholars posit that communities existed before citizens and emphasize the need for citizens to be dutiful and loyal and responsible to their state or community irrespective of the individual interests or goals of the citizen. It also references the notion that citizens of a state by virtue of their

[1] Michael Lister, ``Theories of Citizenship" Citizenship in Contemporary Europe 2008,Edinbrugh University Press https://edinburgh.universitypressscholarship.com/view/10.3366/edinburgh/9780748633418.001.0001/upso-9780748633418-chapter-2

[2] Shourideh C. Molavi, ``Stateless Citizenship: The Palestenian –Arab Citizens of Israel" Brill Publications 2013 Page 27

citizenship possess a compendium of social, cultural and economic rights and responsibilities as a distinct from their citizenship rights.[3]

This theory deemphasizes individualistic rights of citizens but emphasizes the need for duty or loyalty of citizens vis-a-vis the personal interest of the athlete. In other words, the desire for national swapping in sports may be quenched by the sense of duty to a developing nation based on immutable virtues of loyalty and sense of duty irrespective of the economic gains that the athlete may acquire

(iii) Existing Legal Regime for National Swapping in Sports

National swapping especially in sports thrives because of the existing citizenship legal framework in the national and international scene which by their content may devoid of competences to prevent national swapping and this is investigated below.

(iv) Human Rights

The united nations on the declaration on human rights by virtue of its provisions accommodate national swapping practices especially in sports because the law provides that everyone in a national jurisdiction is entitled to a nationality and no one shall be deprived of his or her nationality nor denied the opportunity to change his or her nationality.[4]

Furthermore, the right to citizenship under international law is a fundamental human right and it indicates the power of every citizen irrespective of the medium of acquisition of the citizenship to acquire a new citizenship, change and retain the citizenship of a country.[5] International law as evidenced above is clear about its perception of citizenship. There is a consensus on the international scene on the liberalisation of nationality. i.e nationality that promotes individualism rather than communalism.

This is evident in the accommodation of a citizen to change or acquire citizenship as reasonably as possible with no real regime to ensure that the change of citizens is in alignment with a sense of duty to the existing nation where the citizen is presently a national. These laws are attempting to prevent the ability of the state to interfere in the capacity of a citizen to exchange or renounce citizenship because of how dictatorial the act will be perceived.

However, in the attempt to achieve this, a citizenship market has been created where developed nations are willing to engage athletes from Africa to compete for them in international sports tournaments in exchange for the renunciation of their existing nationality for the nationality of the developed nations for economic gain.

Although, it is important to note that national swapping is not the only consequence on the liberalisation of citizenship, the ability to protect citizenship by marriage or naturalisation for the

[3] D Philips and Y Berman,``Social Equality and Community Citizenship" European Journal of Social Work volume 4 2001 issue 1 Published 2010

[4] Article 15 (1) (2) of the Universal declaration on human rights 1948

[5] Office of the High Commissioner for human rights ``OHCHR and the right to nationality" https://www.ohchr.org/EN/Issues/Pages/Nationality.aspx last accessed on 12/2/21

ease of immigrant obtaining citizenship in countries they have been in active employment overtime is necessary.

(v) Naturalisation

Citizenship by naturalisation is a normative tool in the acquisition of citizenship of another country. Countries in Europe for instance have by international law permitted persons lawfully and habitually resident on their territory for a period of at least ten years to acquire their nationality through naturalisation.[6]

The naturalisation dynamics to obtaining citizenship apart from the requirement of lawful and habitual residency is also typical of other factors such as age, language integration, the character and the health status of the applicant and more importantly, the ability of such applicant to economically support themselves and their families independent of any government aid or support.[7]

Nevertheless, there are some new controversial factors considered by developed nations especially in Europe to grant nationality by naturalisation which helps to aid national swapping in sports which will be discussed under the following headings;

(i) Benefit to the Country

There are states that consciously make an exception to their normatively acceptable requirements for naturalisation as stated above if they perceive that the granting of an immediate naturalised nationality to an applicant will be of immense scientific, economic, social benefit to that country especially achievement in the realm of sports which usually in this case the initiative of the citizenship is midwife by the state or the parliament of the state.[8]

Countries usually shy away from indicating this item in their laws for the sake of controversies but will rather implement it in form of a policy. This was the case in Qatar without relaxed its immigration or citizenship laws in order to legally recruit about 39 athletes for the Rio Olympics to participate athletically to secure some number of medals for the country by handling passports to all of them which is citizenship by naturalisation.[9]

(ii) Renunciation of Citizenship

The other item of controversial nature in the acquisition of citizenship by naturalisation is the requirement of renunciation of previous nationality. There are jurisdictions that insist generally on the renunciation of existing nationality and some that are flexible about same to acquire their citizenship for instance the European convention advises that state parties shall not make the

[6] Article 6.3 of the European convention of nationality 1997

[7] Article 5 of the European convention of nationality 1997

[8] Mr. Andrew Walmsey,`` Commitee of experts on nationality" Report on Conditions for the acquisition and Loss of Nationality Strasbourg updated 14 January,2003

[9] Tom Finn,``Qatar's recruited athletes stir debate on Citizenship" https://www.reuters.com/article/us-qatar-olympics-nationality-idUSKCN11015P updated 2021

renunciation of existing citizenship a requirement for the acquisition or retention of citizenship in Europe where such renunciation is not reasonable or cannot be reasonably required.[10]

The requirement of renunciation of existing citizenship to obtain citizenship is not necessarily controversial since it helps to secure the sanctity and respect for the country involved. However, when the renunciation of citizenship involves the exchange of a sportsman citizenship for a new citizenship solely because of its sporting prowess makes the naturalised citizenship transactional.

(vi) The Handicap of Local Reguatory Regimes in Africa

Africa as a continent is a continent referred to usually as a disadvantaged continent with a large quantum of its population living below the poverty line with almost 59 million children out of school for reasons of funding in adequacies and forced into child labour and also a deficient human resource bank.[11]

This trait still reflects in the human capital index in Africa with Africa performing worse than the global average on the overall score in the areas of development, unemployment, gender participation and education and this strata of persons include athletes who may feel under employed due to poor wages ,funding or proper infrastructure for training etc.[12] The lack of human capital in sports to dignify African countries would concern African nations and will prompt them to create policies or laws to persuade or forestall national swapping in sports.

Nevertheless, the African countries are handicapped in preventing national swapping in sports because it lacks the jurisdictional competence to prevent the movement of the athlete under international law being that the athlete has the right of ingress and egress out of his or her country of birth and cannot prohibit or restrain an athlete prom renouncing his or her citizenship since the citizenship especially acquired at birth by implication extends to the right to renounce same.

Therefore seems that the African countries would need to rely heavily on the efforts of international sports organisation in curtailing this menace as matter of international sports policy to maintain equilibrium of fairness in international competitive sports between developed and developing nations.

(VII) Prohibitve Measures by Sports Organisations

(a) International Olympic Commitee

There are measures in the international Olympics Committee code of ethics which implied caters to preventing national swapping in the absence of an express provision prohibiting same.

A clear example is the requirement that based on the principle of solidarity and development in the application of good governance requirements in the Olympics committee must be subject to

[10] Article 16 of the convention of nationality 1997

[11] SOS children villages ``On the poorest continent ,The Plight of Children is dramatic" https://www.sos-usa.org/about-us/where-we-work/africa/poverty-in-africa last accessed on 29/12/21

[12] Mariama Sow,``Global Human Capital Index" https://www.brookings.edu/blog/africa-in-focus/2017/09/22/figures-of-the-week-africa-and-the-global-human-capital-index/ updated September 22,2017

ideologies that represent equity especially in the distribution of resources and the right of competition participation be secured for athletes for appropriate levels in question.[13]

The emphasis of the foregoing provision helps to prevent national swapping in sports because it brings to the fore the unconscientious nature of concentration of talented athletes presented by developed nations which sometimes are due to the use of national swapping. This then creates a moral and ethical burden on developed nations that market their citizenship in sports to create an imbalance in the human resource distribution in sports to the detriment of continents such as Africa because of its inherent equity deficiency.

Despite the foregoing, there is a provision in the code of ethics that may be problematic in achieving the prevention of national swapping and it is the code of ethics requirement that the international Olympics movement shall be protect human rights as far as they apply to the Olympic games by ensuring that it takes conscious efforts to reject every form of discrimination on grounds of sex, national or social origin.[14]

The foregoing may be problematic in achieving the prohibition of national swapping because the Olympic committee is prohibited in discriminating against athlete because of his choice of nationality either by birth or naturalisation since that may be an infringement on the right to citizenship of the athlete to renunciation of citizenship and the exchange of same.

Furthermore, the Olympic charter creates some regulatory framework for the participation of athletes at the Olympic Games. The charter indicates that the basis for participation at the games is dependent on nationality and if there is a contention as to the nationality of a competitor at the Olympic games shall be resolved by the International Olympic Committee executive board.[15]

The charter for instance permits an athlete to represent just one country if he or she has dual citizenship as elected by the athlete but if such athlete has represented one of the countries either at a continental, regional or international level such athlete cannot represent another country especially in a change of nationality except three years has elapsed between the previous representation and the proposed new representation.[16]

This provision is a clear indication that the attempt at national swapping for economic or social gains for athletes and developed nations are far from over. The provision only prohibits representation of more than a country at the same time and gives a period of three years for an athlete to represent another country irrespective of the manner or the objective of securing that citizenship and the resource damage or gap it will cause in the nation or continent losing the athlete.

The charter makes a fair attempt of empowering the local federations in restraining such athletes from representing other countries but such competence is as regards the reduction or cancellation

[13] Article 6.1 of the International Olympics committee code of ethics 2021
[14] Article 1.4 of the Olympics Committee code of ethics 2021
[15] Article 41(1) of the Olympic Charter 2020
[16] Bye law 1 and 2 to article 41(1) of the Olympic charter 2020

of the three years requirement provided for the leaving athlete to represent another country.[17] In other words, the local federations for instance are only empowered by the charter to prohibit the representation of the athlete of another country within three years from his or her last representation of the African country but not the prevention of the renunciation or exchange of citizenship which means that the frame work for participation at the Olympics has in no concrete way addressed the problem of marketisation of citizenship for sporting prowess objective for developed nations.

However, it is admitted that the IOC would be unable as a sorting body to legislate on issues surrounding the exchange or renunciation of citizenship since the right to the exchange of citizenship is an internationally recognised fundamental human right but it is expected that the IOC can limit the marketisation of same especially when it creates an imbalance in the athlete representation at international tournaments.

(ii) International Athletics Federation

National swapping is a problem that is quite peculiar to athletics because of the range and spread of the sports and its capacity to obtain medal winnings at international tournaments. The case of national swapping became so prevalent in athletics that in 2016,the international athletics federation decided that it was a necessity to review the athlete national allegiance switching rules because at the time, athletes were only required to be absent from participating at an event before switching national allegiance to another country.[18]

This rule created the room for 85 athletes to compete for new countries at the Eve of the Rio Olympics which included 12 athletes who had initially competed for countries in Africa or Caribbean nations which is a case of national swapping for economic or social gains for athletes and developed nations.[19] This concern of course prompted the IAAF in an effort to curtail this menace to in its 208th council meeting revoked the transfer of allegiance in athletics by revoking the competition rules as at 2016 .[20]

The council reiterated the impact of the allegiance switching on the African continent and the athlete drain effect in substantial terms where the President Stephen Coe commented thus that:

> *``It has become abundantly clear with regular multiple transfers of athletes especially from Africa that the present rules are no longer fit for purpose. Athletics which at its highest levels of competition is a championship sports based on national teams,is particularl vulnerable in this respect".*[21]

The Africa group representative at the council Hamad Kalkaba Malboum on the IAAF council stated that

[17] Bye law 2 to Article 41 of the Olympic charter 2020

[18] Carribean nation weekly, ``IAAF reviews rules for athletes switching country allegiance" updated August 2016 https://www.caribbeannationalweekly.com/caribbean-breaking-news-featured/transfer-allegiance-athletes/ last accessed on 30/12/21

[19] ibid

[20] Iaaf, ``IAAF freezes transfer of allegiance process" https://www.worldathletics.org/news/press-release/transfer-allegiance-council-meeting-russia last accessed on 30/12/21

[21] ibid

> *``The present situation is wrong what we have is a wholesale market for African talent open to the highest bidder. Our present rules are being manipulated to the detriment of the athletes credibility. Lots of individual athletes concerned many of whom are transferred at a young age do not understand that they are forfeiting their nationality. This must end and a new way must be found to bring sports dignity''*[22]

The foregoing typifies the problem of citizenship marketing and its consequent problems on the legitimacy of the processes of sporting organisation such as IAAF on national swapping but has been bastardized by the quest for economic or social gains by the athlete and developed nation. The IAAF then decided to freeze the national swapping switching process in 2018 with amendments to the eligibility rules to the participation of athletes in subsequent tournaments divided into first time participants and participants seeking to switch nationalities to represent the new country intended.

(a) First Time Participants

These set of provisions accommodate athletes that have never represented any country even their country of birth but intend to represent a country other than their country of birth either by virtue of marriage or by naturalisation.[23] The athletes have the eligibility criteria of either marriage, naturalisation with a three year residency in the country the athlete intends to represent to be approved by the IAAF contingent on some certain factors.[24] These factors includes the athlete waiting for a three year duration from the date the application for the national swapping was made during which the said athlete is prohibited from representing any country or compete in any other relevant competition in athletics.[25] The approval of the national swapping for a first time participant is also contingent on his or her ability to demonstrate a sufficient link to the country which he or she intends to represent or will obtain such link at the end of the waiting period and such link must be genuine, close, credible and established.

The foregoing provisions seek to address national swapping for athletes that have not competed for any country especially their country of birth but intend to naturalise and compete for other countries. The first observation is that although this is national swapping the economic colouration of the country allegiance is marginally reduced because the talent has not performed on a level or proven competence that will prompt a developed nation to market their citizenship to the athlete for an international competitive advantage.

Nevertheless, it is national swapping for an economic social advantage because the naturalised or proposed naturalised athlete is a talent that has the potential of bringing social and economic glory to his nation of birth but this is hampered by this provision. More so, the prohibition of national swapping is only prohibited for three years from the date of application for the naturalised status and to compete for the nation elected by the athlete to compete who can be considered temporary remedy for a permanent problem of economically incentivised national athlete swap.

[22] ibid
[23] Rule 5(2) c of the IAAF comprtition rules 2018
[24] ibid
[25] Rule 5(2)c (i) of the IAAF completion rules 2018

The condition of the athlete establishing a concrete, genuine, close link to the country intended to represent may be considered some level of restraint on the ease of national swapping because the provision seems to put the burden on the athlete to establish a concrete, genuine, link to that country. Although, it is somewhat unclear the exact variant of link being referred to whether it is referring to a resident address, family ties, employment connection to that country. It is posited that the lack of precision on the exact meaning of this provision is actually an unintended advantage to nations in Africa who can subjectively interprete this provision to mean unattainable concrete links such as family ties to the proposed adopted country of the athelete to help prevent the athlete drain on the continent.

(b) Competing Athlete

The rules provide that for athletes that have already competed or represented a country either of birth or by naturalisation shall not be competent to compete for another country in a national representative competition.[26] However, the IAAF created some exceptions to the rule above but that which is of relevance to this paper is the exception contingent on the direct approval of the IAAF if the athlete has been on a waiting three year period from the point of application for the said national switch or swap during which the applicant will not be able to compete for any other country at a recognised athletics event.[27]

The choice of the use of terms in the foregoing provision is problematic because for sports stakeholders the use of the word ``shall" in prohibiting national swapping after an athlete has already competed for a country is commended but the qualification of that provision by an exception that resates the same conditions as those competing in a tournament for the first time clearly defeats the intention of preventing national swapping. The requirement of the three years hiatus on sports participation in an athletics tournament is not in any form of seriousness distinguished in its consequence from athletes who have never participated in any competition despite the fact that in the case of the athlete who has undertaken some form of representation has in one way or the other advertised his or her competence to the world and can possibly invite offers for his service by marketing their citizenship. The only mild consolation for anti-national swapping advocates is that the eligibility rules provide that in athletes can switch their nationalities at least twice in their life time. However, the second switch is compulsorily back to the country of birth or initial representation which subtly helps the anti-national swapping course.[28]

(iii) FIFA

FIFA being the governing of soccer nationally has also demonstrated some efforts in curbing national swapping in the game to curb the marketization of citizenship of developed nations to athletes in disadvantaged continents such as Africa. The eligibility rules for participation in a national team is that any person who holds a permanent nationality of a country and he or she is not dependent on residence to get the citizenship of that country can represent that country at a FIFA organised or supervised competition.[29]

[26] Article 4 of the IAAF competition rules of 2018
[27] Article 4 (b) i of the IAAF competition rules of 2018
[28] Rule 5 of the competition rules of IAAF 2018
[29] Rule 15 of the FIFA eligibility rules of FIFA statutes

However, a player may not be able to represent a national team if the player has already participated in a match organised by FIFA in any category and cannot represent the country in any international match.[30] The foregoing presents an area of contestation where developing nations may be culpable for pseudo-economic citizenship. This is usually expressed by developing nations such as the countries in Africa trying to convince Players who by descent can trace their nationality to the developing country but by birth are citizens of another country which is in compliance with FIFA regulations

This phenomena by some African countries is in compliance with the player eligibility rules of FIFA which provide that a player may play for more than one nationality if the player was born in another territory, his biological father or mother was born in another territory or his grandfather or grandmother was born in the other territory.[31] The developing nations poach these players from national teams where they were born or naturalised because of their advertised competence to play for the national team on the basis on the foregoing conditions, so the developing nation can secure some social and economic advantage at international competitions.

However, the difference between the acts of economic citizenship marketed by developed countries to athletes from disadvantaged nations is that in the case of the developing nations the athletes being sought after are already citizens by virtue of birth so there is no need to market their citizenship.

Nevertheless, FIFA on the whole seems to be anti-national swapping since, it really does not give exceptions on the exchange of citizenship to accommodate national swapping because of its insistence on the lack of competence to compete for a country after that athlete have already competed and represented another country which aids the course against economic citizenship. FIFA has also permitted a footballer to nationally switch to any country he or she intends to compete for or represent if he or she has not competed for any other country if one of the following conditions is fulfilled which are that he was born on the territory of the country, his biological mother or father was born on the territory of the country or his grandmother or grandfather were born in that country.[32] In other words, there is a concerted effort by FIFA to curtail the ability for players to willy-nilly change or exchange their citizenship if they have not represented another country by restricting the choices of country they can swap as countries that are directly connected to their birth, descent or ancestral line.

However, the foregoing restrictions are not applicable to athletes or footballers with more than one nationality for which he must elect to play or represent one of the countries but the choice of country that he or she would play for or represent would be dependent on whether he or she had not represented the other country in a match (either in part or in full) in an official competition organised or supervised by FIFA which is of international level and at the time of the not playing for this team, the player already had the nationality of the country of choice which he intends to

[30] Rule 15(2) of the Fifa eligibility rules of Fifa statutes
[31] Article 16 of the eligibility rules of FIFA
[32] Article 17 of the eligibility rules of FIFA

represent.[33] FIFA seems to have a stringent approach to national swapping making the ability or competence to represent another country at an international or national tournament impossible except the country of birth when that country has some nexus to that athlete by birth or ancestrally.

(VIII) Refugee Status

A refugee is defined in international law as a person who owing to prosecution on the ground of race, religion, nationality or membership of a particular social group or political opinion is outside his or her country and is unable or owing to such fear is unable or owing to such fear is unwilling to avail himself of the protection of that country or not having a residence or country due to the turn of events and is unwilling to return to it.[34] The inclusion of the issue of the status of refugees is important because of the potential of refuges being citizens of the country of residence which are usually in developed countries. It is advocated that the promise of citizenship because of circumstances in the home country of a refugee should not be employed as economic bait to grant citizenship to persons such as athletes especially because the convention of the status of refugees subtly accommodates this practise by virtue of some of its provisions.

The Convention on the status of refugees for instance mandates that the refugee must be treated by the state where he or she is resident with the most favourable treatment same as those accorded to nationals such as in the same circumstances in the right to engage in paid work or employment.[35] The foregoing provision in a mild way encourages states that are buoyant with material resources to engage talented athletes from war torn African countries or countries that consistent in the infringement of human rights to cajole them to take up employment in sports to represent the country since naturalisation of those refugees is already set in motion which may set a very ugly precedent for the status of refugee all over the world.

This danger is reflected in the sense that the international law prefers that the refugee does not remain a refugee for too long but the state that harbours those refugees expedite a naturalisation process by which the refugees can fully become citizens of the countries where they are resident and the state encourage the naturalisation process by reducing the cost of obtaining their citizenship so its affordable to the refugees.[36] The danger that this generates is if a sporting talent is discovered, there might be an economic incentive to quickly fast track his or her citizenship by naturalisation on the basis of participating in sporting tournaments and representing the resident nation. There is a silent admission of this fact in some international sports regulatory framework especially in athletics. The competition rules for 2021 for instance recognises the status of refugees vis-a-vis the right to compete or represent a country where they are resident and not their country of birth.

The competition rules provide that refugees will be able to compete or represent a country of residence and without express authorisation from the national federation of birth before representing another country at an international competition which is usually the country of

[33] Article 18(1) a of the FIFA Football eligibility rules
[34] Article 1(a) 2 of the convention relating to the status of regugees 1951
[35] Article 17 of the convention relating to the stayus of refugees 1951
[36] Article 34 of the international convention on the status of the refugees 1961

residence.[37] In other words, the foregoing was supposed to curtail or prevent national swapping in sports especially preventing athletes who had already represented a country from further representing another country in an international competition without some express exceptions. There is an obvious lacunae in the refugee status in the sense that it will subtly encourage developed nations to use their citizenship as bait to achieve the representation of athletes since the competitive rules particularly in world athletics to compete for the resident country without being breach of competitive rules and national obligations to the refugees country of birth.

This is further reinforced by the refugee's international Olympic team created by the President of the International Olympic committee with 10 athletes that originally hailed from Ethiopia, South Sudan, Syria and Democratic republic of Congo competed alongside other 11000 athletes at Rio Olympics in Brazil to inspire the world and ensure strength in the human spirit.[38] The ability for these refugees to advertise their capacities at the world stage already makes them a toast of countries that are deficient in their sports talent to naturalise this talents since they do not owe any national obligation to their country of birth whom they might have represented at an international competition.

(IX) Individual and Corporate Economic Rights

Despite the consistent arguments against the marketisation of citizenship for sporting objectives, it is important to posit that the act of economic citizenship as a bait for sports successes by countries may be an expression of the corporate right of a county to freely pursue their economic, social and cultural development in this case will be sports development.[39] This right to pursue economic citizenship is further reinforced by international law by providing territories the capacity to in order to achieve their own economic goals freely utilize their wealth and resources without prejudice to any international obligation based on an existing economic cooperation based on the principle of mutual benefit.[40]

The economic right of nations mentioned above should ordinarily prompt them to engage acts such as economic citizenship or citizenship marketisation which is a resource to achieve an economic or social end but this process must be subject to mutual benefit. In other words, if the economic dealings of a country is manifestly affecting the economic progress of another then the situation is inequitable and unfair and infringes on the right to mutual benefit for those countries affected by those acts. This is typical of the athlete drain in Africa where in the attempt to increase the economic gains and spread of some developing nations, resources such as citizenship is deployed to help motivate athletes from developing nations to exchange or renounce their existing citizenship for theirs but and there is no mutual benefit for their African counterpart.

Nevertheless, scholars have posited that the economic right of every individual in a territory should be protected even if it causes an athlete drain in a continent such as Africa because every citizen is guaranteed the right in international law the opportunity to gain his livelihood by work where he

[37] Article 4(3) of the IAAF competition rules of 2018

[38] Thomas Bach, ``IOC Refugee Olympic team- A Message of hope and Solidarity" https://olympics.com/ioc/refugee-olympic-team lasta accessed on 30/12/21

[39] Article 1(1) of the International convenant on Economic,social and cultural rights 1976

[40] Article 1(2) of the International convenant on Economic,Social and cultural rights 1976

freely chooses or accepts and appropriate steps are to be taken to safeguard this right because the right to be loyal to be state is optional so athletes are free to leave countries that do not maximise their talent and do not give them variants of economic opportunities that they may maximise in developed countries.

Recommendation

1. The representation of countries at sports tournaments should be strictly based on birth and ancestral connections or ties.
2. Countries that were represented by athletes that change nationalities for economic reasons must pay advertising fees or considerations who fielded them on the world platform
3. The change of nationality by an athlete for economic reasons in Africa must involve the consent of the former national sports organisation.
4. Talented refugees should be given the option of representing their home country from abroad and not economically coerced to represent their naturalised country.

CONCLUSION

Citizenship of a jurisdiction should not be an economic commodity to attract foreign nationals especially to the disadvantage of the immigrant countries. There needs to be an economic balance in terms of material and human resource for the economic competitiveness of both developing and developed nations especially in the realm of sport which has economic and social advantages to sports tournament participation at the international stage.