

EXTRA-ORDINARY RENDITION AND INTERNATIONAL LAW: AN APPRAISAL OF THE NIGERIAN PERSPECTIVE

Written by Kingsley Omote Mrabure Ph.D^A; Ufuoma Garvin Oyibodoro^B; Jenigho Phillip Esavwede Ph.D^C; Peter Ikechukwu Gasiokwu Ph.D^D & Akpoviri Michael Akatugba Ph.D^E

^AAssociate Professor, Delta State University, Abraka, Nigeria, Faculty of Law (Oleh Campus), Dept of Public Law.

^BLecturer, Delta State University, Abraka, Nigeria, Faculty of Law (Oleh Campus), Dept of Private Law.

^CSenior Lecturer, Delta State University, Abraka, Nigeria, Faculty of Law (Oleh Campus), Dept of Public Law.

^DSenior Lecturer, Delta State University, Abraka, Nigeria, Faculty of Law (Oleh Campus), Dept of Commercial and Property Law.

^ELecturer, Delta State University, Abraka, Nigeria, Faculty of Law (Oleh Campus), Dept of Jurisprudence and International Law.

ABSTRACT

This paper investigates Nigeria's involvement in the extra-ordinary rendition process. Given that the first attempt was a failure and was carried out by a military dictatorship, there has been a great deal of worry both inside and outside the country. Since the second attempt was successful and occurred during a democratic administration, there is significant cause for concern. Many are wondering why Nigeria consistently chooses extrajudicial measures rather than utilizing the effective extradition procedures. The episodes have also brought up significant concerns of international law, including those relating to extradition, practice, and processes, which this paper aims to explore. The paper looks at Nigeria's government's activities and identifies the significant international law concerns they present. The paper demonstrates that, in addition to being intrinsically wrong, extraordinary rendition frequently violates a number of human rights.

Keywords: Rendition, Extradition, Abduction, Enforced disappearance, Extra-ordinary rendition, Human Rights.

INTRODUCTION

Generally speaking, States have the power to enact, uphold, and prosecute violators of their substantive laws in the exercise of their sovereignty and territorial jurisdictionⁱ, whether they are residents or citizens. However, there are instances where the offender flees and seeks refuge in a different state, preventing the offending State from using its prosecutorial jurisdiction. But most nations have gone into bilateral arrangements known as extradition treaties to address this jurisdictional issueⁱⁱ; for the goal of returning the fugitive, upon request, to the injured nation for trial. This is in line with the international legal dictum "*aut punier aut dedere*," which states that the perpetrator must either be punished by the State of refuge or turned over to the State that can and will punish him. ⁱⁱⁱ The goal is to prevent significant crimes from going unpunished, even if the perpetrator manages to flee the area where they were committed. ^{iv} It makes sense to request that the host nation hand over the wanted felon to the State where he committed the crime. First, the law of the aggrieved State was broken; second, the offended State also has all the evidence necessary to convict the offender; and third, the offended State has the greatest stake in the perpetrator's punishment. ^v

Criminals would naturally be extradited as required if all States follow the regulations and adhere to the provisions of their extradition treaties. ^{vi} However, in practice, this is not always the case because many States frequently refuse to comply and to grant extradition petitions. In addition to the ambivalent position of customary international law, which neither requires nor forbids States from turning over fugitive convicts to asking States ^{vii}; States reject extradition requests for a variety of reasons as well. It is known, for instance, that Finland and Sweden's refusal to extradite members of the Kurdish Workers' Party (PKK), whom Turkey has labeled terrorists but whom Finland and Sweden view as freedom fighters who should be supported, is one of the reasons Turkey opposed Finland and Sweden's early admission to NATO. ^{viii} Along with political or ideological objections, extradition requests are frequently rejected by states out of concern for possible reprisals against their national interests or residents in the seeking

state. An excellent example is France. Muhammad Daoud Audeh, the suspected mastermind of the 1972 Munich Olympics massacre in which eleven Israeli athletes were kidnapped and killed by Palestinian terrorists, was denied extradition by France in response to requests from Israel and West Germany in 1977.^{ix} In a similar vein and for the same reason, Italy turned down the US request to extradite four alleged PLF hijackers of the MS Achille Lauro (an Italian cruise ship) in 1985 and instead arranged for the group's leader, Mohammed Abu Abbas, to flee to Yugoslavia in order to avert potential terrorist retaliation.^x Perhaps another factor contributing to states rejecting extradition requests is widespread official corruption. This is a major factor in why the majority of Caribbean and South American nations refuse to abide by extradition treaties.^{xi} The "El Chapo" or Joaquin Archivaldo Guzman Loera tale serves as an example of this. According to reports, the corrupt and compromised government personnel helped the Mexican drug boss escape from arrest on multiple occasions.^{xii}

In an effort to apprehend wanted fugitives, States have over time adopted strategies that are somewhat akin to extradition, such as "Irregular Rendition," also known as "Rendition to Justice" and "Extra-ordinary Rendition." This lack of cooperation and unwillingness to extradite^{xiii} wanted fugitives has been a corollary of this. According to reports, several countries around the world engage in the practice of extraordinary rendition under various guises.^{xiv} In the wake of the September 11, 2001 terrorist attacks, the United States, for example, engaged in "extraordinary rendition" on a scale never before seen.^{xv} You might find it fascinating to know that, previous to 9/11, the US had used an ad hoc rendition method to gather intelligence and apprehend wanted felons.^{xvi} After the attacks of September 11, however, all of these were replaced with extra-ordinary rendition, which is simply the removal of terror suspects and their forcible transfer to locations where they might be held outside the purview of any judicial authority.^{xvii} Along with the US, Israel used extra-ordinary rendition rather than a formal extradition in the May 1960^{xviii} kidnapping of Otto Adolf Eichmann, a Nazi German official. Eichmann was charged for organizing and aiding the transportation of millions of Jews to Nazi concentration camps for execution. After the Second World War, he relocated to Argentina. He was forcibly taken by Israel's intelligence service, Mossad, in May 1960. After being moved to Israel, he was tried, given a death sentence, and put to death in 1962.^{xix} In a similar vein, Nigeria used extrajudicial options in 1984 and 2021, despite a

bilateral treaty, in an effort to apprehend her compatriots who were hiding out in the United Kingdom.^{xx}

These occurrences have sparked debate and discontent both within and outside of Nigeria, and many have questioned why Nigeria should always turn to extrajudicial measures rather than utilizing the effective extradition procedures. The episodes have also prompted significant questions in international law, particularly on extradition, practice, and processes, which this paper aims to explore. One of the issues is that, despite extra-ordinary rendition's crude and violent method of operation, many nations throughout the world still use it frequently. Another worry is the participation of nations, including Nigeria, in extraordinary renditions while international treaties like the UNCAT's Articles 9.1 and 15 and the UNSC Resolution 748 of 1992 have stringent extradition laws. Another major concern is the role that nations agreed to play in ensuring the successful execution of the heinous act. The consequences of lack of international denunciation and sanction against guilty states were another topic that was considered. Therefore, the study looks at extradition in general as well as a variety of alternative strategies, such as "irregular rendition" or "extra-ordinary rendition," that are used by other countries, including Nigeria. The paper concluded that extra-ordinary rendition was compelled by its mode of operation to employ brutal and extrajudicial techniques such as extrajudicial arrest, forced disappearance, forcible transfer, torture, and other inhumane treatment that is prohibited under international law. The paper also discovered that the practice infringes on a number of international protections for human rights, and it suggests immediate and spontaneous international consequences against responsible states. The concept of extradition and its historical antecedents are examined in the first section of the paper. The move from extradition to irregular rendition and finally to extraordinary rendition is covered in the second section. The last section will examine the Nigerian experience critically and offer suggestions as well as a critique of the international legal frameworks that were broken by the practice.

CONCEPTUAL FRAMEWORKS

Rendition

Due to their differing *modus operandi*, it is frequent and very simple to confuse rendition^{xxi} with extraordinary rendition. The fugitive is forcibly removed and transferred to face justice in rendition, whereas the fugitive is hidden from justice in extraordinary. Despite their apparent semantic differences, they are actually substantially the same. Rendering, specifically from one jurisdiction to another, is defined in law as "surrendering" or "handing over" a person or piece of property.^{xxii} However, "Rendition" is a general phrase used to cover "all procedures, including extradition for returning"^{xxiii} a fleeing criminal suspect sought for prosecution or punishment from one country to another in the context of runaway criminals. "Rendition" is defined by Black's Law Dictionary as "the return of a fugitive from one State to the State where the fugitive is accused or convicted of a crime."^{xxiv} It may be necessary to emphasize that between 1966 and 1990, various programmes involved the transfer of people across the British Commonwealth's regions. Robinson said that this practice was known as "rendition."^{xxv} He claimed that the programme's official name was the Common Wealth Scheme Relating to the Rendition of Fugitive Offenders of 1966, as revised in 1990. The transfer of accused persons between the British Commonwealth countries is governed by the system, he continued, even though it is not a formal treaty. The plan drew criticism for lacking explicit treaty-like reciprocal responsibilities.^{xxvi}

Rendition can be both legal (extradition) and illegal (i.e. irregular or rendition to justice, and extra-ordinary rendition). A fugitive can be handed over or surrendered legally to another state in accordance with both domestic and international law through a process known as "lawful rendition."^{xxvii} It takes place when a wanted felon is relocated or turned over with the approval of a judicial official.^{xxviii} Extradition is thus a striking illustration of a valid rendition insofar as it emphasizes adherence to established legal requirements prior to the transfer. On the other hand, illegal or irregular rendition often involves the kidnapping of a person from one country by representatives of a different country or the use of private operatives, such informants and bounty hunters, to carry out the same mission.^{xxix} In other words, the suspect is turned over without a judge's consent, or after the turn over, the individual is tortured or detained in violation of his human rights.^{xxx}

Extradition

Extradition has grown more significant in recent years as a result of the expansion of multinational criminal organizations engaged in crimes like as cybercrime, human trafficking, drug trafficking, and modern-day slavery. The standard legal process, according to observations, is extradition, which is based on treaties, in order to deliver a wanted felon from a foreign state to the requesting state for criminal adjudication.^{xxxii} Extradition is the procedure by which a state, acting in accordance with its duties under a treaty, surrenders to another state upon request a person who has been charged with or found guilty of a crime against the law of the requesting state.^{xxxiii} It also refers to the procedure by which a nation can ask another nation, in accordance with a treaty, to send a "extradited person" back to that nation so that they might be tried for a crime that is punishable by that nation's laws.^{xxxiii} In this work, extradition is a formal legal procedure that is triggered by a reciprocal right or obligation arising out of a treaty between the States involved. A host State is obligated to repatriate a fugitive offender to the requesting State so that he can be tried for a crime he committed against the law of the requesting state. To put it another way, rendition refers to the act of turning over a suspect who is on the run once the request, procedures, and approval by a court for his extradition^{xxxiv} have been completed. As sovereign entities came to respect the territorial integrity of other countries, extradition emerged as a formal procedure to apprehend fugitives.^{xxxv} Extradition is founded on key tenets of international law^{xxxvi} like "Reciprocity" and "Comity," which are recognized as universal tenets of amicable international cooperation between states.^{xxxvii} According to the reciprocity principle, a state's government can only agree to extradite someone or pledge to do so in the future if its counterpart is willing to extradite someone first.^{xxxviii} On the other hand, courtesy, goodwill collaboration, and reciprocal recognition of each state's own legislative, executive, and judicial actions with regard to each specific extradition request are all examples of comity.^{xxxix}

Extradition procedures are often only available for serious crimes like terrorism and drug-related crimes; they are not available for political or military offenses. Extradition agreements used to typically include a list of all offences that might be extradited under the agreement. However, this technique is less prevalent today. However, generally speaking, the following offences are exempted from extradition procedures: political offenses, military transgressions like desertions, and religious offenses. In addition to the aforementioned rules, extradition cases are also governed by additional international legal norms and national customs, such as (a) the

rule of double criminality, which stipulates that the extraditable crime must be a crime in both the requesting and the requested states, and (b) the rule of speciality, which stipulates that the extradited offender may only be tried for the specific crime for which he was sought.^{xi} These guiding principles are intended to guarantee that a transferred person's rights are safeguarded and are open to court review.

Abduction

Abduction in this context refers to the taking of a person against his or her will, typically through coercion, deceit, or force.^{xli} An additional definition of abduction is given in section 18 (2)-(14) of the Virginia Code, which states that "Anyone who, by force, intimidation, or deception, and without legal justification or excuse, seizes, takes, transports, detains, or secretes another person with the intent to deny such other person their personal liberty or to withhold or conceal them from any person, authority, or institution lawfully entitled to their charge, shall be deemed guilty of abduction."^{xlii} Sometimes, the words "kidnapping" and "abduction" are used synonymously. At common law, kidnapping was defined as the forcible removal of a person from their own country and into another.^{xliii} A person is kidnapped when they are taken by force, threat, or deception with the intention of keeping them in captivity against their will.^{xliv} Ransom, political, or other motives may be used in kidnapping. Abduction can be defined as the forcible transfer of a person from one State to another without the host State's knowledge or permission.^{xlv} It can also be defined as forcing or enticing someone to move from one place to another by using force or dishonest tactics.^{xlvi} The idea of *mala captus bene detentus*, which literally translates to "wrongfully caught, legally held," has been developed in response to abduction-related incidents.^{xlvii} Despite having a long and infamous history, abduction is not expressly forbidden by international agreements.^{xlviii} Because abduction takes place without the host State's permission, it has been utilized to get around the extradition process.^{xlix} In a variety of situations, the use of abduction has been used to establish jurisdiction. In the first instance, kidnapping has been employed in cases where the extradition agreement would have blocked the proposed transfer.¹ Second, where there is no existing extradition arrangement between States, abduction has been used.^{li} Finally, and most crucially for the time being, despite the existence of extradition accords, certain States have utilized abduction as a means

of extending their jurisdiction and acquiring custody in response to international terrorism and crime.^{lii}

Enforced Disappearance

A serious crime called "enforced disappearance" is conducted by state agents through kidnapping and arresting the victims, who are frequently detained in secret detention and subjected to torture and summary execution while their whereabouts are concealed from their relatives and the general public.^{liii} It is frequently employed by military dictatorships, internal disputes between the government, armed organizations, or political opponents in an effort to repress them. Enforced disappearance is defined as the arrest, detention, abduction, or other form of deprivation of liberty by state agents or by individuals or groups acting with the state's approval, support, or acquiescence, followed by a refusal to acknowledge the deprivation of liberty or by concealing the fate or whereabouts of the disappeared person, which exempts that person from legal protection.^{liv} When state officials seize the victims from the street or their homes, they mysteriously vanish or go missing; they are not released, and their whereabouts are unknown.^{lv} In order to instil fear in the population, forced disappearance is frequently utilized as a tactic.^{lvi} Enforced disappearances, which were once more commonly found in military regimes, now occur anywhere in the world. It is used in internal conflicts, particularly when governments are attempting to suppress political rivals or when armed opposition groups are working with a state.^{lvii} The Declaration on the Protection of All Persons from Enforced Disappearance, which went into effect on December 23, 2010, was adopted by the United Nations General Assembly in 1992 as a result of several instances of enforced disappearance.^{lviii}

Enforced disappearances violate a number of human rights, including the following ones: (a) right to safety and dignity of person; (b) right to be free from torture and other cruel, inhuman, or degrading treatment or punishment; (c) right to humane conditions of detention; (d) right to legal personality; (e) right to a fair trial; (f) right to a family life; and (g) right to life (if the disappeared person is killed or their fate is unknown).^{lix} In fact, Human Rights Watch claims that each of the most recent definitions includes the following four components: The detainee is taken from their freedom without their will, government authorities are involved directly or

indirectly, they refuse to recognise the detention or to reveal the person's whereabouts, and they are removed from the legal system.^{lx}

Enforced disappearances^{lxi} are prohibited under two international agreements:

(1) the 1992^{lxii} United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which called on member states to take effective legal measures to stop the practice while also acknowledging the numerous human rights violations associated with enforced disappearances.^{lxiii}

(2) Inter-American Convention on Forcible Disappearances, 1994.^{lxiv} It is a legally binding document that supports the ban of forced disappearances in treaty law.^{lxv}

Extra-ordinary Rendition

Extraordinary rendition, also referred to as "irregular rendition" or "forced rendition," is a clandestine government-sponsored kidnapping and extrajudicial transfer of a person from one country to another with the aim of getting around that nation's laws against interrogation, detention, extradition, and/or torture.^{lxvi} It is the government-supported arrest, kidnapping, or abduction of someone for unlawful interrogation or detention without the public's awareness, either to the state that sponsored the arrest, kidnapping, or abduction, or to a willing third party.^{lxvii} Extraordinary rendition is a hybrid human rights violation that combines features of arbitrarily detaining someone, making them disappear, forcibly transferring them, torturing them, denying them access to consular officials, and preventing them from having their case heard by an impartial judiciary.^{lxviii} The phrase "extraordinary rendition" is only used in the context of the US war on terror,^{lxix} even though the US Department of Justice has been using it since the late 1980s.^{lxx} However, it should be emphasized that at the time, the phrase was used to describe the practice of kidnapping individuals abroad and transporting them to the United States or another nation to face trial^{lxxi} (i.e. irregular rendition). The phrase is now referred to as an abduction euphemism that was created to bypass both the legal safeguards provided to suspects by judicial authorities as well as extradition procedures.^{lxxii}

EXTRADITION IN HISTORICAL PERSPECTIVE

As will be mentioned momentarily, extradition is an example of lawful rendition in that it prioritizes following established legal requirements before transferring a runaway defendant. In fact, it has been said that this is the customary legal process for turning over a wanted criminal from a foreign state to the requesting state for criminal prosecution.^{lxxiii} The extradition of criminals is required by international law, yet there is a problem. According to customary international law, the host state is not obligated to extradite a fugitive in the absence of a treaty.

Ancient civilizations were the first to use extradition and create extradition treaties. Early historical records mention the Egyptian-Hittite Peace Treaty of 1280 B.C., sometimes known as the "Treaty of Kadesh," signed by Rameses II of Egypt and Hattushilish III^{lxxiv}, a Hittite prince. The pact put an end to a lengthy conflict between the two powerful ancient Near Eastern nations over control of the Eastern Mediterranean that lasted more than two centuries. Along with swearing allegiance to one another and to maintain peace and concord with regard to the disputed territories, the parties also vowed to extradite any political rejects (sometimes known as "great men") to their native countries.^{lxxv} The Hindu Code of Manu is yet another historical instance of this method (200 B.C.)^{lxxvi} Additionally, there is proof that this procedure was used by the Romans up until 100 B.C.^{lxxvii} The extradition process between nations or groups of governments is governed in the contemporary period by a number of bilateral and multilateral extradition treaties. For instance, the West African sub-regional extradition of fugitive criminals is governed by the 1994 Economic Community of West African States Convention on Extradition. Another illustration is the European Convention on Extradition, a multilateral extradition agreement that was signed on December 13, 1957, and went into force on April 18, 1960. It is also open for signature by countries that are not members of the EU, such as Israel, South Korea, and South Africa.^{lxxviii} The US and the EU inked an extradition agreement on June 25, 2003 in Washington. Although extradition procedures are open to states via the diplomatic route, they are conditional upon meeting specific legal requirements. First, there needs to be a "extraditable individual" before an extradition request may be issued. In addition, there needs to be a "extraditable offence." The "extraditable individual" must either have been accused with a crime by a court of competent jurisdiction but not yet been tried, or

may have been tried and found guilty but escaped from jail, or may have been tried and found guilty in absentia.^{lxxxix}

States typically only extradite for serious crimes,^{lxxx} crimes of considerable public importance,^{lxxxii} and offences that are penalized in both the host and seeking states as a matter of practice (double criminality) The following offences, in general, are not the subject of extradition proceedings: political offences, military transgressions like desertions, and religious offences.^{lxxxiii} Although it may not be simple to fully define or classify political crimes, some criteria have been accepted to help in this regard, including: the crime's motivation; the conditions of its commission; and it only includes specific offences, such as treason or attempted treason.^{lxxxiv} A legal definition of a political crime was provided in *Re Meunier*^{lxxxv} which states that "there must be two parties actively vying for political control in the State where the offence is committed, and the offence is committed in furtherance of that goal, thereby excluding anarchist and terrorist acts."^{lxxxvi} In 1955, the definition of "political crimes" was enlarged to encompass offenses done in connection with a political object (such as anti-Communism) or in an effort to escape political retaliation or prosecution for political transgressions.^{lxxxvii}

In addition to the aforementioned, if an extradition request is submitted within the West African sub region, it must closely adhere to Article 18 of the 1994 Economic Community of West African States Convention on Extradition, which calls for additional information from the applicant state. The following information and supporting materials must be attached to such an application:

- (a) the original or an authenticated copy of the conviction, immediately executable sentence, warrant of arrest, or other order having the same effect and issued in accordance with the procedure set forth in the law of the requesting state;
- (b) a statement of the offenses for which extradition is requested.
- (c) an authenticated copy of the pertinent law indicating the sentence that may or has been imposed for the offense and as accurate a description of the person claimed as possible along

with any other information that will help to establish his identity, nationality, and the time and place of their commission, as well as their legal descriptions and a reference to the relevant legal provision, shall be set out as accurately as possible. Additionally, the requesting state must comply with the requirements of Article 4 of the Economic Community of West African States Convention on Extradition of 1994, which states that the crime for which the fugitive is sought in the requesting state is not a political crime or a crime related to a political crime and that the request for his extradition is not an attempt to prosecute or punish him based on his race, tribe, political opinion, sex, or status. The purpose of this is to ensure that the fugitive's rights are adequately protected and that he is not extradited for false offenses. To put it another way, it is not enough for the requesting state to simply assert that the fugitive is wanted for serious offences like terrorism or murder; instead, it must provide specific evidence that is sufficient and compelling.

EXTRA-ORDINARY RENDITION: THE NIGERIAN PERSPECTIVE

Alhaji Umaru Dikko, the former minister of transportation, was arrested in 1984 in what has come to be known as the "Dikko saga" by Nigerian intelligence agents working with some Israeli citizens. They attempted to ship him back to Nigeria in a crate. The British security forces prevented the attempt from succeeding.^{lxxxvii} Nnamdi Kanu, the leader of the Indigenous Peoples of Biafra (a Nigerian separatist group), was forcibly taken into custody at the Jomo Kenyatta Airport in Nairobi, Kenya, 37 years later, on June 20, 2021. He was then transported back to Nigeria, where he is currently facing numerous accusations.^{lxxxviii} The news that Sunday Adeyemo (also known as Sunday Igboho), the infamous arrowhead of the Yoruba separatist group, had been detained by security forces of the Benin Republic at the request of the Nigerian government with plans to be forcibly transferred to Nigeria, reverberated throughout the world while the effects of the illegal abduction of Nnamdi Kanu were still being felt. While attempts to kidnap Umaru Dikko and Sunday Igboho failed, Nnamdi Kanu's was successful. These accounts, while undoubtedly not unique occurrences, vividly characterize Nigeria's entry into the abhorrent practice of "extraordinary rendition." Since Nnamdi Kanu's odyssey is the subject of the paper, a background to the episode may be required in order to fully understand the issues at hand.

Background

A separatist organization called the Indigenous People of Biafra (IPOB) campaigns for the separation of a sovereign state of Biafra from Nigeria. Nnamdi Kanu has served as the organization's leader since its founding in 2012. Kanu was able to assemble opinion and command a large following with the help of his London-based radio Biafra, particularly among young people. Kanu, the group's leader, was originally detained in 2015 after what is believed to have been ongoing conflicts with security services. An eleven-count complaint was filed against him, accusing him of terrorism, treason, publishing false information, and unauthorized importation of commodities. When serving 18 months in jail, Kanu was released on bail in April 2017 after the trial court eventually dismissed some of the accusations. In the meantime, the Nigerian federal government has declared the organisation to be a terrorist organization and banned it. In September 2017, the Nigerian military invaded his home, and he fled the nation. In June 2021, four years after leaving Nigeria to face unresolved criminal allegations related to terrorism, treasonable felony, unlawful possession of firearms, management of an illicit society, etc., he was kidnapped and returned to Nigeria.^{lxxxix}

At the restarted trial, a preliminary objection was made to the jurisdiction of the court to hear the case due to the shocking way Kanu was kidnapped in Kenya and transported forcibly to Nigeria. Eight court charges were cited by the court in its decision regarding the objection as not having revealed any offence against Kanu. Kanu must now appear in court for the remaining counts, according to the High Court. Unhappy, the legal team for Kanu filed an appeal with the Nigerian Court of Appeal. In a daring move on Thursday, October 13, 2022, the Nigerian Appeal Court criticized the Nigerian government's forced transfer of Nnamdi Kanu from Kenya to Nigeria in June 2021. According to the court, Kanu's extraordinary rendition by the federal government of Nigeria breached local, international, and institutional conventions, protocols, and charters, and was therefore fatal to the prosecution's case. Because of this, the Court of Appeal not only annulled and discharged Nnamdi Kanu of all treason, treasonable felony, and terrorist accusations brought against him by the Nigerian government in 2021, but also prohibited lower courts from considering additional allegations against him. The Federal government has appealed the ruling to Nigeria's Supreme Court and has defied all requests to get Kanu released from detention.

MATTERS ARISING

This tale raises a variety of difficulties. First, the government's unwillingness to free Kanu unconditionally brought to light once again Nigeria's propensity for disobeying court decisions. Even if the government has the authority to challenge the court of appeals' ruling, Kanu has already won the case and should be released without conditions because he is totally innocent of all charges. According to Nigeria's Federal Constitution, a person accused of a crime is deemed innocent until and unless they are shown to be guilty.^{xc} The Court of Appeal's decision is clear-cut. In addition to quashing and clearing Nnamdi Kanu of all charges, it forbade lower courts from considering new accusations against him. In *Ezeze v. State*^{xci}, the Court of Appeal elaborated on the basis of the charges, stating that it is sufficient where the charge has the potential to harm the accused or cause oppression. Quash, according to Black's Law Dictionary, is to overthrow, abate, vacate, annul, and declare void.^{xcii} Quashing, then, is the legal term for stopping all ongoing trials, which has the consequence of giving the accused no longer having a case to answer.

The second problem that emerged from the Court of Appeal's ruling is that the Nigerian government had forfeited its authority to prosecute the appellant for any offence because of its egregious contempt for national and international law.^{xciii} This declaration seems to indicate that Nigerian courts have disavowed the United States Supreme Court's ruling in *United States v. Alvarez-Machain*^{xciv}; and fully embrace the House of Lords decision in *State v Ebrahim*^{xcv}. In *United States v. Alvarez-Machain*, the Supreme Court ruled that the court does not lose its jurisdiction to hear the case because a wanted felon was forcibly kidnapped and brought before it.^{xcvi} Without a doubt, the Court's ruling illustrates, among other things, how far American judges submit to the executive.^{xcvii} This makes sense given that in the US, concerns about international affairs, particularly when they are tied to concerns about national security, are generally accepted. However, the authors believe that this customary deference to the executive branch of government should not be permitted to trample on the constitutional rights of those who have been accused of a crime. In *State v. Ebrahim*, however, the situation is the opposite. The House of Lords ruled that English courts should investigate the facts and reject jurisdiction when a wanted criminal has been forcibly kidnapped or abducted and taken to the United Kingdom, in violation of international law and existing extradition processes. The

English Court has demonstrated the need for the judiciary to uphold its reputation as the protector of the rule of law and human rights. According to the author, the English viewpoint is a better legal framework since it will end executive rascality, which frequently jeopardizes human rights or the rule of law. It would seem that the US is acting alone with this choice. This is true because it appears that other countries in the commonwealth and European countries have used the *State v. Ebrahim* ratio as a model to study a variety of related situations.

The third concern is to the moral or legal justifications that the Federal government of Nigeria is using to justify keeping Nnamdi Kanu's case on the books even after the Court of Appeal ruling. The law is clear that the State must enter a court proceeding with "clean hands" if it is a party to a dispute, such as in criminal cases. When the State is directly involved in a kidnap, it is impossible for it to keep its hands clean. ^{xcviii} The Federal government has allegedly filed new accusations against Kanu, which is the context for this. Legally speaking, even if these accusations are true, they cannot stand because the Court of Appeal has said that due to the issue of extra-ordinary rendition, Nnamdi Kanu cannot be charged in any Nigerian court.

CONCLUSION

This paper has looked at the idea of extraordinary rendition in general and showing how widespread it is. The paper examined the practice of the Nigerian state using the Nnamdi Kanu's conundrum as a case study. The paper made the case that, while acknowledging that the practice of extra-ordinary rendition breaches human rights, the courts can at least limit it. It made the case that the court shouldn't support the state when it violates the law by helping to impair the rights of a citizen, particularly a defendant. The paper applauds and recommends the Nigerian Court of Appeal's ruling, which denies the government the right to continue the trial of Nnamdi Kanu. This is in the solid conviction that an act of kidnap if upheld, will unabatedly continue executive sleaze.

ENDNOTES

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ⁱⁱⁱ J.G Starke, *An Introduction to International Law* (4th ed. London: Butterworth, 1958), 261.

^{iv} U.O. Umzurike, *Introduction to International Law*, (3rd.ed. Lagos: Spectrum books, 2005), 160.

^v *Id.* (n.3).

^{vi} *Id.* (n.2).

^{vii} *Id.* (n.3), 261.

^{viii} N Turak, "Conflict, politics and history: Why Turkey is standing in the way of Sweden and Finland's NATO bids", *CNBC World Politics*, Monday, May 23, 2022. < www.cnbc.com > accessed 12 January. 2023.

^{ix} B Hoffman, "Is Europe Soft on Terrorism?" *Foreign Pol'y*, July 1, 1999 at 62, in Laflin, Melanie M. (2000) "Kidnapped Terrorists: Bringing International Criminals to Justice through Irregular Rendition and Other Quasi-legal Options; Note," *Journal of Legislation*: Vol. 26: Iss. 2, Article 5. p318.

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