

# One Nationality, Multiple Loyalties: Challenges and Legal Safeguards

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## Abstract

There has been a growing trend in recent years where it is argued that the nation-state is losing its ability to dictate the political allegiance of its citizens. Instead, citizens are increasingly seeing loyalty as a personal choice. These claims become more evident for various reasons. One of them is the increasing number of identifications and calls for public acknowledgment of social differences. Additionally, the failure of the post-modern state to address the needs of significant portions of their populations contributes to this. Moreover, there are arguments suggesting that stronger transnational solidarities are a defining feature of our globalised world. An important consequence of globalisation is the movement of large populations around the world and the efforts to foster loyalty towards supranational bodies like the European Union. One of the most noticeable signs of changing allegiances away from the nation-state is the rise in popularity of self-determination groups and non-state actors who are challenging the state's

authority from within. In Nigeria, a diverse society with a complex history of conflicts, human rights violations, and insurgency, the fragility of the country's territorial integrity and its impact on development require a deeper examination of citizenship and the loyalty of its citizens. This paper thoroughly explores the context of nationality and citizenship in Nigeria, analysing the evolution of the legal framework and the different aspects of citizen loyalty under international and domestic law. This analysis delves into the impact of the current legal and policy framework on loyalty, highlighting how the lack of justice and fairness can further distance citizens from their allegiance to the State.

**Keywords:** Nationality, Citizenship, Loyalty, Rights and duties, human rights, Nigeria.

## **Introduction**

Globally, the term citizenship has continued to expand in meaning and application. Factors such as globalization and the rise of cosmopolitanism have stretched the hitherto accepted operation of nationality in several parts of the world. The expansion of loyalty towards supranational organizations such as the European Union (EU) and its creation of a region-wide entity with transboundary economic benefits for the citizen has meant that nationality has moved well beyond the exclusive preserve of states. Other factors such as the increasing purchasing power of the global businessman and the phenomenon of cash-for-passports, advancement in technology such as blockchain and the enhanced power of internet communities or 'netizens' have drastically transformed the politics of nationality.

The African continent is not left out in this transformation. However, the struggle of African states to provide public goods and establish a strong domestic constitutional order further exacerbates the problem of allegiance of the citizen to the state. The absence of the rule of law in African states warrants that African states are still grappling with establishing functional legal systems that enable maximum enjoyment of the right of nationality. In Nigeria, a multi-ethnic society with a chequered history of civil war, violent ethnic and religious conflicts, a gross violation of human rights, and a ravaging case of insurgency, the precarity of the

territorial integrity of the state and its potential to impede her path to development warrants a closer look at the concept of citizenship and the allegiance of her citizenry.

Consequently, this paper examines the context of nationality and citizenship in Nigeria and juxtaposes the evolution of the legal framework of citizenship with the various themes of loyalty of the citizen under international law and domestic law. At its core, it explores the effect of the extant legal and policy framework on loyalty to find out what affects the loyalty of the citizens to the State. To methodically interrogate this issue the paper is divided into five parts.

The first part examines the concept of nationality under international law and African union law and offers insight into the normative makeup of the concept. The second part analyses the changing landscape of the notion of nationality. The third part scrutinizes Nigeria's legal framework for citizenship and nationality by exploring its historical context, constitutional basis, acquisition processes, and inherent challenges. The fourth part explores the socio-politics of nationality in contemporary Nigerian society. Finally, the concluding part recommends the way forward, showing justice and equity as binders for loyalty in Nigeria.

### **Conceptual Framework of Nationality and Citizenship.**

The term nationality has long been established as one of the central notions governing the identity of an individual, group, or body corporate since societies began to organize into communities and later states. The Black's law dictionary defines nationality as 'the relationship between a citizen of a nation and the nation itself, customarily involving the allegiance by the citizen and protection by the state'.<sup>i</sup> Nationality is often used synonymously with citizenship.<sup>ii</sup> Put in other terms, nationality as a political conception is the glue that binds individuals and society and the currency with which the citizen enjoys rights and from which certain obligations are shared by the State and the citizen.

In the *Nottebohm Case*,<sup>iii</sup> the International Court of Justice noted that according to state practice 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.<sup>iv</sup>

Furthermore, Shaw defines nationality as a ‘legal manifestation of the link between the person and the state granting nationality and a recognition that the person was more closely connected with that state than with any other’.<sup>v</sup> These definitions underscore the centrality of the notion of nationality to the existence and functioning of the individual in society.

Nationality or citizenship is generally categorized into nationality through *jus soli* or *jus sanguinis*. The former category refers to the law or right of the soil. It is a concept whereby an individual obtains citizenship by birth in a particular country. A legal system where the exclusive *jus soli* rule applies prevents individuals from claiming the citizenship of their parents if they had moved away from their ‘historical’ home but is more favourable to actual residents of a particular territory. *Jus sanguinis* or law or right of blood, applies to citizenship based on descent from parents who themselves are citizens. In general, the law tends to exclude from citizenship residents of a country who are descended from individuals who have migrated from one place to another. These two basic concepts are combined in most jurisdictions.

Precisely which rights a state guarantees to its nationals/citizens varies by state, but the most common restricted rights are the right to permanent residence within the state, the right to freedom of movement within the state, the right to vote and to be elected or appointed to public office, the right of access to public services, and the right to diplomatic protection when outside the country.<sup>vi</sup> Despite being long considered the “reserved domain” of states,<sup>vii</sup> the right to nationality evolved with the human rights movement over the years.

The first international treaty on nationality was the Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, adopted in 1930. The Convention affirms in its preamble that it is in the international community’s interest to ensure that all countries recognize that “every person should have a nationality”. While providing that each state may decide under its laws who are its nationals, the Convention provides that other states will recognize these laws only insofar as they are consistent with international conventions, custom

and “principles of law generally recognized about nationality”.<sup>viii</sup> The Hague Convention was an attempt to guarantee nationality to all while minimizing dual nationality, by harmonizing nationality practices among states. The right to nationality was one of the rights guaranteed in the Universal Declaration of Human Rights in 1948.<sup>ix</sup> Article 15 provides that “[e]veryone has a right to a nationality” and that “[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”.

The 1961 Convention on the Reduction of Statelessness,<sup>x</sup> which entered into force in 1975,<sup>xi</sup> makes it a duty of states to prevent statelessness in nationality laws and practices. Article 1 mandates that “[a] Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless”. Article 2 then endorses the protection given in the Hague Convention to foundlings, providing that “[a] foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State”. About deprivation of nationality, Article 8(1) directs that “[a] Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless”. Although Article 8 does provide limited legitimate grounds for the deprivation of nationality even if the deprivation would result in statelessness (where, for example, nationality has been gained by fraud or where a national swears allegiance to another state), such deprivation can occur only through a procedure that respects due process. Furthermore, the 1954 Convention relating to the Status of Stateless Persons, binds State Parties to facilitate the assimilation and naturalization of stateless persons to the fullest extent possible.<sup>xii</sup>

It is noteworthy that international law relating to nationality is relatively undeveloped in comparison with other areas of human rights. However, there have been significant new jurisprudence and efforts at standard-setting in recent years, particularly the burgeoning *lex scripta* of the African Union. The African Charter on the Rights and Welfare of the Child (ACRWC),<sup>xiii</sup> which is modelled on the UN Convention on the Rights of the Child (CRC) provides in Article 6 for the right to a name, birth registration and to acquire a nationality, but it goes beyond the CRC by incorporating the requirement in the 1961 UN Convention on the Reduction of Statelessness relating to “otherwise stateless” children, that “a child shall acquire the nationality of the State in the territory of which he [*sic*] has been born if, at the time of the

child's birth, he is not granted nationality by any other State in accordance with its laws".<sup>xiv</sup> The African Charter on Human and Peoples' Rights (African Charter)<sup>xv</sup> does not mention the right to a nationality, but does include a provision in Article 5 on the right to "recognition of legal status". In 2013 and 2014 the African Commission on Human and Peoples' Rights adopted two resolutions confirming the jurisprudence of the Commission that the right to a nationality was implied within Article 5, affirming norms on non-discrimination, and deciding to draft a protocol on the right to a nationality in Africa. In July 2015, the Commission adopted the draft text of a protocol, which then moved into the stages of consideration by the other AU structures.<sup>xvi</sup>

African states have mostly enacted laws that respect these general principles of international law. According to Manby, more than half of African countries either provide a right to nationality to any child born in their territory, or the right to claim nationality for that child if he or she is still living in the state in adulthood.<sup>xvii</sup> In the same vein, a large majority of states now allow men and women citizens equal rights to pass nationality to their children. In practice however, gender and racial or ethnic discrimination are still present elsewhere, and the extremely weak legal safeguards to protect rights based on birth in the territory in some countries, as well as a lack of institutional effectiveness to govern nationality matters, leave many at risk of statelessness.<sup>xviii</sup>

African states must embrace international law norms and recognise historical and contemporary realities to prevent statelessness and the political, social, and economic challenges it creates domestically and regionally.<sup>xix</sup>

These norms underscore the importance of the right to nationality as a central concept for the enjoyment of rights and duties within the territory of the nation-state. Hannah Arendt criticizes the hinging of rights within the modern nation-state on the conditionality of the acquisition of citizenship. Arendt encapsulates the limitation of statehood over citizenship by describing the right to nationality as "the right to have rights". Arendt's long-suffering analysis offers critical insights which are useful in understanding the continuing legal and political exclusion of stateless people. Arendt opposes the modern conception of human rights and its foundations in naturalist metaphysics and liberal subjectivism by arguing that the weakness of such

foundations is demonstrated by the lack of progress in eradicating the problem of stateless persons in the last century. She argues thus:

No paradox of contemporary politics is filled with poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as 'inalienable' those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.<sup>xx</sup>

Deducible from the above is the fact that loss of membership in a political community expressed as nationality or citizenship becomes tantamount to the loss of human rights and dignity. This state of absolute rightlessness or being 'merely human' means that the individual is effectively excluded from all states and thrust out of legal existence altogether.<sup>xxi</sup> It is for this reason that Arendt emphasizes the need to recognize both de jure stateless, 'or a person who is not considered as a national by any state under the operation of its law', or the de facto stateless, such as refugees, internally displaced persons (IDPs), resident aliens, and immigrants threatened by denationalization, ineffective nationality, or who can prove neither their nationality nor that they are legally stateless.<sup>xxii</sup> Nationality is the currency by which an individual may enjoy any right under a state.

### **Historical Context and the Changing Landscape of Nationality in Africa.**

The historical context of nationality or citizenship in Africa is nuanced and often understated. It is important to briefly outline this historical context to get a better understanding of its ramifications in the modern African state particularly as it affects the allegiance or loyalty of the citizen. In ancient African societies, Africans claimed several types of citizenship, each of which connoted 'its own framework, territory, and management and self-management groups'.<sup>xxiii</sup> The case of the Mandé illustrates the unique nature of citizenship in the region in old times thus:

all those who belonged to the Kingdom of Mali possessed a sort of Malian citizenship. When people travelled, they were viewed as nationals of Mali. After

the last village belonging to Mali, people from elsewhere were thought of as belonging to other entities. Malian nationals were Mandinka. The term designated both people from Mandinka land and nationals of the Empire of Mali. Everywhere in Africa, references to extended families, villages, neighborhoods, and cantons [were] highly significant.<sup>xxiv</sup>

In pre-colonial African communities, people constantly moved around ‘in a state of osmosis and symbiotic exchanges, in terms of social uses, languages, dances, ideologies, religions’. This inter-ethnic solidarity, of which fluid borders were its defining feature, granted foreigners special protection in many pre-colonial societies.<sup>xxv</sup> With the advent of colonialism and the eventual demarcation of these societies into states, the laws and practices of the new administration transformed the fluidity of citizenship and imposed a new philosophy of nationality originating from the Westphalian conception of citizenship. Nwankwo opines that:

The transfer of legal concepts from Western European powers through colonialism permeated every aspect of the national life of the erstwhile colonial territories in Africa. Thus, not only has inclusive pre-colonial conceptions of nationality been overtaken, [...] there has been a variation in the contemporary frameworks for the implementation of the right to nationality in African states.<sup>xxvi</sup>

To date, these tribes and ethnicities continue to migrate between the territories of African states unable to recognize the boundaries created by statehood and the resultant strictness of identification within the state through nationality. Nomadic tribes such as the Fula, the Maasai, and the Tuareg continue to migrate between states as has been the cultural practice for centuries. In Nigeria for instance, the Fulani ethnic group have contributed immensely to the history and development of the Nigerian state and is a major pillar of the state. Fulani nomads account for 90% of Nigeria’s livestock population<sup>xxvii</sup> and they move between borders at different times of the year. The fluidity with which these ethnic groups traverse the borders of the nation-state in the region is representative of age-old practices that cannot be easily dispensed by the strictness of nationality as a means of identification and existence in modern times.



The internecine battles, political upheavals, and humanitarian catastrophe in modern African states demonstrate that citizenship is still contested. The ethnic and religious diversity of administration and politics in most African nations makes nationality or citizenship-based loyalty weak. However, internal and external factors may explain this view. African States lack nationhood internally. Years of lousy governance have forced African institutions to take a win-at-all-costs approach to politics. Weak institutions create larger-than-life individuals who reduce governance to a game of political power. Thus, ethnic and religious diversionary arguments fuel the political process.

After years of underdevelopment, grave human rights violations, contempt for the rule of law and constitutional processes, and poverty, the population now relies on self-help. The African state's incapacity to provide fundamental public amenities appears to have fostered distrust between the state and the governed. This position may drive people inward and increase their reliance on ethnic, religious, and identity politics to win governance benefits over loyalty to the Leviathan, the state. Increased self-determination movements in Nigeria and armed non-state entities contesting the geographical integrity of the Nigerian state may indicate diminishing state loyalty.

Externally, the spillover effect of globalization appears to have affected the substance of citizenship and its occurrence which is allegiance or loyalty to the state. Vogel aptly describes the effect of globalization and the rise of global cosmopolitanism on citizenship thus:

In fact, unconditional or largely unreflective loyalties to the state have come under a double challenge. First, there is the challenge from above through globalizing economic factors such as the extended global reach of new multinational conglomerates, global financial markets and institutions, through the tourist and entertainment industries, through technological advances in communications and the media, including the Internet, and through the proliferation and increasing political salience of international bodies from the multiplying number of international non-governmental organizations to the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), the European Union and the agencies of the United Nations (UN)

itself. Second, unreflective or customary loyalties to nation-states are subject to pressures from below, as demands for regional autonomy and devolved power grow stronger. These two pressures are closely connected.<sup>xxviii</sup>

While the factors of the effect of globalization on citizenship in the global North cannot be transfixed in Africa, what cannot be denied is the impact of the transboundary connectedness resulting from global cosmopolitanism on Africa. Mass migration by Africa's youth population has sparked an immigration crisis that has become a hot-button issue at the centre of major political debates in Europe.<sup>xxix</sup> In Nigeria, the "japa syndrome"<sup>xxx</sup> or brain drain not only points to the backlash by the youth population over dwindling economic fortunes but realistically highlights disenchantment which has resulted in a lack of allegiance or loyalty. But sentiments aside why should a young person give their best years to a country failing to develop out of blind loyalty when they can choose to vote with their feet and legally migrate to another country and acquire citizenship in a short time? The following section examines the extant legal framework on nationality in Nigeria and its potential to engender loyalty to the Nigerian state.

### **Legal Framework of Citizenship and Nationality in Nigeria**

To understand Nigeria's current legal framework, it is essential to examine the historical developments that have influenced the concept of citizenship and nationality in the country. The colonial era, subsequent independence, and constitutional reforms have all played a significant role in shaping Nigeria's citizenship regime, reflecting both continuity and change over time. Nigerian citizenship was first defined with the adoption of the 1960 Independence Constitution.<sup>xxxi</sup> Transitional provisions established the conditions for the acquisition of citizenship by those already living in Nigeria, and a *jus soli* regime going forward, so that any person born in Nigeria after independence automatically became a citizen at birth.<sup>xxxii</sup> Additional detail on the acquisition of citizenship by registration (on application, provided certain conditions were fulfilled) and naturalisation (discretionary grant based on long residence) was provided in a Citizenship Act, amended in 1961.<sup>xxxiii</sup>

Since the 1960 Constitution, the most important reforms to the provisions on citizenship were enacted in 1974 and 1979. The 1974 amendments established a modified double *jus soli* regime

for acquisition at birth so that a child born in Nigeria would be automatically attributed citizenship at birth only if one parent or grandparent was also born there.<sup>xxxiv</sup> The 1960 and 1961 Citizenship Acts were also repealed. Chapter III of the 1979 Constitution introduced an ethnic dimension to Nigerian citizenship for the first time, moving away from rights based on birth in the territory towards a rule based on descent and membership of a ‘community indigenous to Nigeria’.<sup>xxxv</sup> The citizenship regime introduced by the 1979 Constitution is still largely retained in the current 1999 Constitution.

The current Nigerian Constitution serves as the primary source of legal provisions governing citizenship and nationality. Chapter three, sections 25-32 of the Constitution<sup>xxxvi</sup> provides extensively for citizenship in Nigeria and stipulates that a person shall become a Nigerian citizen by one of these three ways: (1) by birth, (2) by registration, (3) by naturalisation.

A person is a Nigerian citizen by birth if: (i) Both parents are Nigerians (ii) Either parent is a Nigerian (iii) Any or one of the grandparents is a Nigerian.

Section 31 states that ‘a parent or grandparent of a person shall be deemed to be a citizen of Nigeria if at the time of the birth of that person such parent or grandparent would have possessed that status by birth if he had been alive on the date of independence’. Also, Section 309 states that those who were already citizens under earlier constitutions remain citizens of Nigeria.

Section 26 provides for the acquisition of citizenship by registration and states that:

(1) subject to the provisions of section 28 of this Constitution, a person to whom the provisions of this section apply may be registered as a citizen of Nigeria, if the President is satisfied that –

- (a) he is a person of good character;
- (b) he has shown a clear intention of his desire to be domiciled in Nigeria; and
- (c) he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution.

(2) the provisions of this section shall apply to-

- (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.<sup>xxxvii</sup>

In other words, a person can become a Nigerian citizen by registration if she is a non-Nigerian woman married to a Nigerian; and if he is a person of full age and capacity born outside Nigeria, any of whose grandparents are citizens of Nigeria and such person satisfy the conditions prescribed under section 26(1) of the constitution.

Citizenship by Naturalization is provided for in Section 27. It is clear from the section that a person can become a legal citizen of Nigeria by naturalization by fulfilling the requirements as stipulated in the section. After this, a certificate of grant of citizenship by naturalization is issued to the person. This is how any foreigner who has lived for a long time in Nigeria may become a Nigerian citizen.

The Nigeria 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. A citizen by birth can also acquire citizenship of another country without renouncing his Nigerian citizenship. In *Willie Ogbeide v Arigbe Osula*,<sup>xxxviii</sup> one of the issues before the court was whether a citizen of Nigeria by birth will lose his Nigerian citizenship if he acquires citizenship or nationality of another country and will the dual citizenship be a ground to disqualify such a person from being a member of the National Assembly. Adeniyi J.C.A noted that:

...a citizen of this country by birth never loses his citizenship even when he holds dual citizenship of another country and cannot be disqualified from contesting election into the House of Representatives for reasons only that he holds such dual citizenship. The lower tribunal therefore misled itself in that regard and the answer to issue No. 4 is that section 66(1) does not prohibit Nigerian citizens by birth from holding the citizenship of another country and from contesting an election to be a member of the National Assembly.

Therefore, the constitution and consequently Nigerian law do not permit dual citizenship for a foreigner who is not a citizen of another country by birth. However, a naturalised citizen cannot hold any other naturalised citizenship. Forfeiture of citizenship by a naturalised citizen who

acquires or retains another naturalised citizenship is automatic, and acquisition of Nigerian citizenship by a person who is already naturalised elsewhere requires effective renunciation of the other naturalised citizenship.<sup>xxxix</sup>

There is also provision for the loss or deprivation of citizenship under an umbrella term covering both voluntary and involuntary renunciation of citizenship.<sup>xi</sup> Section 30 of the Constitution makes provision for this. This provision permits the president to deprive a naturalised citizen (but not a citizen by birth or registration) of his or her citizenship on various grounds, including conviction of a crime and sentencing to a prison term, or if ‘the person has shown himself by act or speech to be disloyal towards the Federal Republic of Nigeria’, or has associated with the enemy in various ways if Nigeria is at war.

Finally, the president has the delegated authority generally to make rules and regulations, not inconsistent with the constitutional provisions relating to issues of citizenship, and for carrying out such provisions. Thus, 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.<sup>xli</sup> Also, citizenship is included within the exclusive legislative list for the National Assembly.<sup>xlii</sup> No legislation has been enacted or regulations promulgated, enabling a high degree of executive discretion in implementing the constitutional framework.

The forgoing current legal regime on Nigerian citizenship and nationality as provided for in Chapter III, sections 25-32 of the Constitution have some notable flaws and inconsistencies which present implementation challenges. First, the constitutional provision on citizenship by birth under section 25 contains no provision for foundlings, otherwise stateless, or adopted children. It does not establish that a child born in Nigeria (e.g., born by unknown parents), who does not acquire the nationality of one of his or her parents should have the right to Nigerian citizenship.<sup>xliii</sup> Also, it contains no protection for foreign or stateless children adopted by Nigerian citizens, to ensure that they can acquire the citizenship of their adoptive parents.<sup>xliv</sup>

Secondly, the constitution did not provide any definition for the phrase ‘community indigenous to Nigeria’,<sup>xlv</sup> leaving uncertain the interpretation of this controversial clause. It creates uncertainty over who is in fact a Nigerian citizen under the provisions of Article 25(1)(a) of

the Constitution. As Akande<sup>xlvi</sup> noted presumably a Cameroonian could claim to have belonged to a community indigenous to Nigeria – after all, some part of Cameroon was previously part of Nigeria. All that one needs is to get a certificate from any of the local governments in Nigeria to claim citizenship by birth. As Makolo<sup>xlvii</sup> observed, many of the people in the border country communities are members of communities indigenous to both countries and as such are legally free to take advantage of the constitutional provision without any measure of legal commitment or loyalty to Nigeria or belief in its values and aspirations. This is because there is affinity, cultural and linguistic homogeneity among them. It was based on this provision that the case of *Shugaba Darman v The Minister of Internal Affairs & Ors*<sup>xlviii</sup> succeeded as the court held that once it is proven that a person is a Nigerian citizen, he cannot be deported from Nigeria and any such unlawful deportation or unlawful interference of fundamental rights of a Nigerian citizen attracts compensatory and exemplary damages.<sup>xlix</sup>

Thirdly, Section 26 of the constitution provides that a woman married to a Nigerian man can acquire citizenship by registration, but not a man married to a Nigerian woman.<sup>1</sup> More so, the discretionary provision requires the woman to satisfy other conditions of the requirement of good character, intention to remain domiciled in Nigeria and swearing to an oath of allegiance.<sup>li</sup> This provision is onerous and discriminatory.

A similar flaw is contained in section 26 which states that ‘*every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria*’.<sup>lii</sup> The provision thus opens up the possibility of acquisition through a grandparent to those born outside; whereas if born in the territory the grandchild of a citizen automatically acquires citizenship at birth.<sup>liii</sup>

### **The socio-politics of citizenship and Nationality in Nigeria**

Citizenship is one of the many pressing socio-political topics and ideas that have gained widespread attention in recent years. However, in contemporary Nigerian society, the rights attached to citizenship appear to be waning with citizens gaining fewer rights and privileges and losing others informally. An incorrect interpretation of citizenship has led to this crisis in Nigeria, a country with 36 constitutionally recognized states and a population of over 200 different ethnic groups.<sup>liv</sup>

In a press conference on June 6, 2017, a coalition of Northern groups, including the Arewa Youth Consultative Forum, gave all Igbo residents in the 19 Northern states a three-month ultimatum to leave the North voluntarily or be forced out by October.<sup>lv</sup> They also advised northerners in the South East to return north since Igbos have become a menace to national unity.<sup>lvi</sup>

In 2020, one Adeyinka Grandson, a major promoter of ethnic prejudice, issued a command for all Igbo people to leave Lagos state within 48 hours or suffer problems. When asked what would happen to the Igbos if they fail to leave within the allotted 48 hours, he highlighted a repeat of what occurred in Ore Ondo State in August 1967. There are several other areas where the denial of basic citizens' rights is well pronounced. These areas are employment, education, political appointments, etc.

Nigerians find it difficult finding jobs in other states and localities. These jobs are reserved for the indigenes. It is also tough to get jobs in some federal or state government agencies in a particular state or local government different from one's place of origin. Because of this, non-indigenous Nigerians who were born and raised in these states or local governments cannot take advantage of this opportunity because their parents were not from the state. Indigenes fight for the appointment of their compatriots to significant roles at the detriment of other Nigerians in non-governmental or commercial organizations. Within this context, non-indigenous vice-chancellors are unusual at federal universities and almost impossible in state universities. Highly skilled Nigerian professionals cannot run state government ministries, general or teaching hospitals, chief medical directors, chief judges, accountant generals, etc. outside of their native states.<sup>lvii</sup>

During elections, discrimination and the promotion of first- and second-class citizens are rife. When all constitutional prerequisites are met, Nigerian nationals can vote anywhere, but they cannot be voted for outside of their birthplace.

In Nigeria, it is paradoxical that "indigeneship" grants all the rights and privileges of citizenship, but citizenship does not. One may even argue that when faced with indigeneship, Nigerian citizenship gives up some of its rights and perks. Being a native of a specific ethnic

nationality, state, local government region, town, clan, village, or kindred is more advantageous than being a Nigerian citizen since it provides more options. In addition to giving a person additional rights and privileges in his community than a non-native can receive from Nigerian citizenship, it first and foremost secures a person's complete right to Nigerian citizenship.<sup>lviii</sup>

The dichotomy or tension between indigeneity and citizenship is particularly evident in modern Nigerian society, with the former appearing to be more advantageous than the latter.<sup>lix</sup> In other words, being an outsider in one of the states of Nigeria other than one's state of origin is quite similar to being a non-Nigerian.<sup>lx</sup>

There is no justification for compelling Nigerian citizens who have never lived in or contributed to their home states to relocate there in order to claim the rights and privileges due to them under Nigerian law.<sup>lxi</sup> Nigerians who have made significant contributions to the improvement of their communities should not be treated as second-class citizens when dividends are distributed. It would be extremely unfair to deny residents of dividends in states where they live and built just because they are not indigenes.<sup>lxii</sup> Every citizen of Nigeria has the right to live anywhere in the country free from harassment or discrimination.<sup>lxiii</sup> Unfortunately, this is not the case in practice. Citizenship of a particular ethnic group, state, local government, clan, hamlet, etc. is recognized in practice rather than Nigerian citizenship.

Furthermore, discrimination against women based on their gender is equal to discrimination based on tribe and religion.<sup>lxiv</sup> Women are indirectly barred from several elective and appointive positions, some are denied access to jobs, educational scholarships, and other privileges just because they are women, this would eventually spell doom for the nation's human capital resources.<sup>lxv</sup>

Moreso, the indigenous population is fighting for the freedom to exercise all political and economic power without interference from the settlers. The settlers, on the other hand, strive to combat the indigenes' attempts to exclude them from the socio-economic and political rights that already exist. As a result, millions of Nigerians who reside outside the sociopolitical context in which they can claim their indigenous identity experience isolation and various forms of humiliation. While some people have passively accepted their privations, others have



opposed and contested their exclusion, sparking a wave of confrontations.<sup>lxvi</sup> This frequently took on the form of violent confrontations, which had terrible repercussions for the stability and cohesion of Nigeria's federalism.<sup>lxvii</sup>

The complexity and apparent contradictions of intergroup relations in the country are exemplified by the struggle between the Tiv and the Jukun, which centres on the question of indigeneity. The Nigerian state has been criticized for failing to find a solution to the problem of how to effectively integrate the country's numerous ethnic minorities. Instead, the post-colonial policies of Nigeria continue to fragment the country and its people.<sup>lxviii</sup> This explains why disputes similar to the one between the Tiv and the Jukun have been fueled rather than extinguished by the Nigerian state's lacklustre attitude toward settling the citizenship question. Disagreements over who came on a certain piece of land first (the "indigenous peoples") and who "invaded" (the "settlers") are often at the heart of these wars.<sup>lxix</sup>

The caste system in Eastern Nigeria is a silent opponent of Nigerian citizenship that the government has yet to address. This has continued for generations with no end in sight. The caste system, called as 'Osu', was once more prominent in marriage but has since spread to property ownership, political offices, and employment. Many parts of the country do not sell land to settlers, and even when they do, the youths organise themselves as 'Ogbo n'eché Agu' or 'Omonile' (Sons of the Soil) to extort money from those who have bought land.

The challenges of multiple loyalties, migration, and conflict cannot be entirely separated from poverty, limited resources, and the scramble for survival. Naturally, scrambling doesn't occur in a place of surplus, however, it is an integral outcome of meager resources.<sup>lxx</sup> Limited resources and poverty can play a significant role in shaping multiple loyalties to a country, often resulting in complex and multifaceted relationships individuals have with their nation.<sup>lxxi</sup> When individuals struggle to meet their basic needs, such as food, shelter, and healthcare, their primary loyalty might shift towards ensuring their own survival and well-being. In such situations, national loyalty might take a back seat to personal and family needs. People might prioritize finding ways to access resources, regardless of their nationality. Local Identity and Community: In areas with limited resources and poverty, strong community bonds and local identity often develop as people rely on each other for support. Loyalties to one's local

community can sometimes overshadow national loyalties, as individuals feel a stronger connection to those who are facing similar challenges and sharing the same circumstances.<sup>lxxii</sup> Moreover, Poverty can force individuals to prioritize immediate concerns over abstract concepts like national loyalty. People might be more focused on finding work, earning a living, and ensuring their families are taken care of, leaving less mental and emotional space for a deep sense of loyalty to their country. The ways in which governments respond to poverty and resource scarcity can influence citizens' loyalty. If a government is seen as actively addressing these issues, it might bolster national loyalty. Conversely, a perceived lack of effort can lead to skepticism and weakened loyalty. Poverty can also serve as a catalyst for social movements and activism aimed at addressing systemic issues. These movements often focus on improving conditions for marginalized communities and can lead to a sense of loyalty to the cause and its goals.<sup>lxxiii</sup>

Economic imbalances, especially between the ruling political class and populace, must be addressed. Poverty can increase alienation in wealth-inequality settings. When people see a favoured minority getting national resources while they suffer, it can cause anger and reduce national loyalty, leading to huge migration and dual identities. When limited resources and poverty force people to relocate for better possibilities, they often acquire conflicting loyalties. Due to cultural and family ties, people may feel attached to their home nation and loyal to their new host country, where they hope for better chances.<sup>lxxiv</sup> Moreover, lack of access to education which also stems from poverty can hinder people's ability to fully engage with the idea of national loyalty. Without a proper understanding of their country's history, values, and culture, individuals might not develop a strong sense of attachment.<sup>lxxv</sup>

There's a great need for the industrialization of Nigeria. It's quite pathetic that an oil-producing nation like Nigeria would still be importing petroleum from non-oil-producing industrialized countries that have refineries. The "Jakpa Syndrome" and "brain drain syndrome" have robbed Nigeria of her best human resources to other industrialized countries who have provided a good conducive environment. Limited resources and poverty can complicate the relationship between individuals and their countries, leading to a variety of loyalties that are influenced by immediate needs, local communities, migration experiences, and perceptions of government

responsiveness. The interplay of these factors can create a rich tapestry of identities and allegiances within a society.

## **Conclusion**

The notion of "One Nationality, Multiple Loyalties" has both difficulties and prospects in the Nigerian setting. Nigeria's population possesses a wide range of ethnic, cultural, and religious backgrounds, which contributes to a diversified and intricate fabric of identities and affiliations. Nevertheless, this wide range of differences also presents difficulties, since people may choose different allegiances depending on characteristics like as ethnicity, religion, or regional identity, which could possibly result in tensions and conflicts. These tensions can appear in other areas, such as politics, governance, and socio-economic interactions, which creates considerable difficulties for national unity and cohesiveness.

While it is inherent for individuals to uphold affiliations with their ethnic, cultural, or religious communities, prioritising allegiance to the Nigerian state is crucial for cultivating a feeling of belonging and shared identity. To successfully manage these various loyalties, it is necessary to carefully navigate the relationship between personal liberties and shared obligations. Additionally, it is important to build inclusive national stories that celebrate Nigeria's variety while highlighting shared principles and goals.

Nevertheless, despite the presence of legal protections, there are ongoing difficulties in successfully dealing with the intricacies linked to various allegiances in Nigeria. Factors like lax in governance, conflicts based on ethnicity and religion, exclusion from political processes, and inequalities in socio-economic conditions persistently hinder the progress towards achieving national unity and cohesion. Lax in governance was seen in the inability of the government to arrest the recurrent conflicts between farmers and herders, where government lax portrayed a seeming condonation. To tackle these difficulties, a comprehensive strategy is needed that integrates legal reforms with socio-economic interventions, educational initiatives, and community involvement efforts. The goal is to promote discussion, understanding, and reconciliation among disparate groups.

To address the possible negative repercussions of numerous loyalties, it is crucial to establish and implement laws and policies that encourage inclusivity, equality, and respect for diversity from a legal standpoint. The Nigerian constitution establishes a structure for citizenship and entitlements that should surpass ethnic, religious, or regional associations, ensuring equitable rights and opportunities for all citizens irrespective of their origins. In addition, legislative protections such as laws against discrimination, initiatives to promote equal opportunity, and methods for resolving conflicts and encouraging harmony are essential in reducing tensions and fostering social unity. There is need for Justice and equity in settling conflicts and disputes. Citizens are more likely to trust the system and seek peaceful outcomes when grievance processes are fair and impartial. Unbiased courts, mediation, and arbitration assist promote social cohesion and loyalty by giving redress and resolution. The provision of adequate security for the protection of lives and properties is so paramount in nation building and ensuring the loyalty of the citizens to the nation. Insecurity reduces social cohesion, trust in the government's ability to protect citizens, and may cause people to prioritise their own safety over nationalism.

When people feel mistreated in Nigeria, they are more likely to leave for better possibilities. This could deprive Nigeria of its best personnel, hurting its economy and progress. According to the World Bank's 2023 study, Nigeria has the greatest brain drain rate of 177 nations. The paper defines brain drain as skilled and educated workers leaving a country. Nigeria has lost 2 million talented people over the previous decade and \$25 billion per year due to brain drain, according to the research. The government of Nigeria must ensure fair treatment for all and sundry irrespective of citizens' indigenous communities, tribes and religious affiliations. Citizens trust government and organisations more when they feel treated fairly and without discrimination. Fair treatment makes citizens feel valued and protected, which fosters loyalty.

Although variety enhances the social structure of Nigerian society, it necessitates intentional actions to manage tensions and conflicts that arise from conflicting loyalties. Nigeria may achieve a more unified and resilient society by promoting inclusive national narratives, enhancing legal protections, and encouraging discussion and reconciliation. This would allow the country to use the benefits of its diversity and overcome the difficulties caused by conflicting loyalties.

## Endnotes

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- <sup>i</sup> Bryan A Garner (ed) *Black's Law Dictionary* 114 (8<sup>th</sup> edn, West Publishing Co, 2004) 114
- <sup>ii</sup> Under municipal law, citizenship is used more often in the Commonwealth states to represent the legal bond of rights and duties, while the civil law jurisdictions use 'nationality' (*nationalité/nacionalidade*).
- <sup>iii</sup> *Liechtenstein v. Guatemala* (1955) ICJ 23.
- <sup>iv</sup> *Supra*.
- <sup>v</sup> Malcolm N Shaw, *International Law* 494 (8<sup>th</sup> edn, Cambridge: Cambridge University Press, 2010).
- <sup>vi</sup> B Manby, *Citizenship Law in Africa: A Comparative Study* 9 (South Africa: Open Society Foundation, 2016).
- <sup>vii</sup> This position was affirmed by the Permanent Court of Justice in 1923. See *Tunis and Morocco Nationality Decrees case*, PCIJ Ser B No. 4 (1923).
- <sup>viii</sup> Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, 1930 (entered into force 1937), article 1.
- <sup>ix</sup> Universal Declaration of Human Rights, 10 December 1948, 217 A (III).
- <sup>x</sup> Statelessness simply implies the lack of any form of legal identification within the boundaries of a sovereign state by an individual or group.
- <sup>xi</sup> UNTS, 989, at 175.
- <sup>xii</sup> UNTS, 360 at 117, Article 32.
- <sup>xiii</sup> *African Charter on the Rights and Welfare of the Child*, 11 July 1990. CAB/LEG/24.9/49 (1990). All African Countries have signed the charter and 47 have ratified.
- <sup>xiv</sup> MANBY, *supra* note 6.
- <sup>xv</sup> African Charter on Human and Peoples' Rights (Banjul Charter), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 ILM.
- <sup>xvi</sup> MANBY, *supra* note 6.
- <sup>xvii</sup> *Ibid*.
- <sup>xviii</sup> The United Nations Commission for Refugees (UNHCR) estimates the figure of stateless persons around the world at about 10 million. The African region contributes a substantial percentage to the global population of stateless people. Groups most affected by statelessness in Africa include descendants of colonial-era migrants, nomadic pastoralists, populations separated by arbitrary colonial boundaries or affected by newly demarcated states, and internally displaced persons (IDPs). Writing on statelessness in Africa and how AU law can be leveraged to address the phenomenon see generally, Chidebe Nwankwo, 'Human Rights, Statelessness, and the Right to Nationality (R2N) in Africa: What can Vertical Structures Achieve?' in O. Amao, M. Olivier & K.D Magliveras, *The Emergent African Union Law: Conceptualization, Delimitation and Application* (Oxford: Oxford University Press, 2021) 209.
- <sup>xix</sup> MANBY, *supra* note 6.
- <sup>xx</sup> H. Arendt, *The Origins of Totalitarianism* (Schoken Books, 2004) 353.
- <sup>xxi</sup> Peter Juviler & Sherrill Stroschein, *Missing Boundaries of Comparison: The Political Community* 3 OUP 436, 435-453 (1999) <https://doi.org/10.2307/2658205>
- <sup>xxii</sup> JUVILER, *supra* note 21.
- <sup>xxiii</sup> J Ki-Zerbo, 'À quand L'Afrique: entretien avec René Holenstein 79 (Éditions de l'Aube, 2003).
- <sup>xxiv</sup> *supra*
- <sup>xxv</sup> An example is the Mandé people which operated a strict code that instructed indigenes to 'never harm to foreigners'. See Énoncé 24 of the Charte de Kurukan Fuga in Celhto, *La Charte du Kurukan Fuga, Aux sources d'une pensée politique en Afrique* (L'Harmattan, 2008) 51, cited in African Commission on Human and Peoples' Rights, 'The Right to Nationality in Africa' Study undertaken by the Special Rapporteur on the Rights of Refugees, Asylum Seekers and Internally Displaced Persons' available at <<https://www.refworld.org/pdfid/54cb3c8f4.pdf> accessed 5 June 2023> accessed 9 March 2023.
- <sup>xxvi</sup> NWANKWO, *Supra* note 18, at 216 – 217.
- <sup>xxvii</sup> E Fabusoro & A Oyegbami, *Key Issues in the Livelihood of Migrant Fulani Pastoralists: Empirical Evidence from Southwest Nigeria* 4 *Humanities, Social Science and Creative Arts* 1, 3. (2009).
- <sup>xxviii</sup> U. Vogel, 'Cosmopolitan Loyalties and Cosmopolitan Citizenship in the Enlightenment' in M. Waller & A. Linklater (eds), *Political Loyalty and the Nation-State* 17 (London: Routledge, 2003).
- <sup>xxix</sup> See G. Grün, 'How the EU spent Billions to Halt Migration from Africa' (DW News, 4 December 2023) available at <<https://www.dw.com/en/how-the-eu-spent-billions-to-halt-migration-from-africa/a-61362906>> last accessed 5 June 2023.

- xxx ‘The mass migration of young people from Nigeria, particularly skilled professionals in the medical sector recently attracted the attention of the National Assembly causing the introduction of a bill to mandate medical doctors to remain in the country for a few years after graduation. See, <‘FG Kicks Against Bill to Stop Doctors’ Migration’ Vanguard Nigeria News Online, 15 May 2023, available at <<https://www.vanguardngr.com/2023/05/fg-kicks-against-bill-to-stop-doctors-migration/>> last accessed 5 June 2023.
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- xxxii Ibid.
- xxxiii Ibid.
- xxxiv Ibid.
- xxxv Ibid.
- xxxvi CFRN 1999 as amended by the 1st, 2nd & 3rd Alteration Act 2011.
- xxxvii Ibid.
- xxxviii *Willie Ogbeide v. Arigbe Osula* (2004) 12 NWLR PT886 at 138, Per AdenijiJ. C. A (Pp 50-51) paragraph a-d.
- xxxix MANBY AND MOMOH, *Supra* note 31.
- xl CFRN 1999, (n 36), section 30 can be termed involuntary loss of citizenship, while section 29 be termed voluntary loss of citizenship.
- xli CFRN 1999 (n 36) s 32(1)(2).
- xlii Ibid, s 4 with schedule 2.
- xliii These protections are required by articles 1 and 2 of the 1961 Convention on the Reduction of Statelessness and by article 6 of the African Charter on the Rights and Welfare of the Child, to both which Nigeria is a party.
- xliv The Child Rights Act No 26 of 2003 does not explicitly remedy this omission, although it does provide in general terms for an adopted child to be treated as a biological child in relation to legal rights and obligations, s 141.
- xlv CFRN 1999,( n 36) s 25.
- xlvi J Akande, Introduction to the Constitution of the Federal Republic of Nigeria 1979 12 (London, Sweet & Maxwell, 1982).
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- xlix Per Lord Devlin in *Rookes v Benard* (1964) 1 All N L R.
- <sup>1</sup> CFRN 1999, (n 36) s 26 (2) (a).
- li Ibid, s 26 (1).
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- liv Ibid.
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- <sup>lxviii</sup> S Adejumobi, *Citizenship, Rights, and the Problem of Conflicts and Civil Wars in Africa* 23 *H R Q* 148 (2001).
- <sup>lxix</sup> A O Adesoji and A Alao, *Indigeneship and Citizenship in Nigeria: Myth and Reality* 2 *TJPAS* 1 (2009).
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- <sup>lxxii</sup> *supra*.
- <sup>lxxiii</sup> SC Ugoh and W I Ukpere *Appraising the Trend of Policy on Poverty Alleviation Programs in Nigeria with Emphasis on a National Poverty Eradication Programme (NAPEP)* 3 *AJBM* 847 (2009).
- <sup>lxxiv</sup> *Supra*.
- <sup>lxxv</sup> *Supra*.