

Kaduna

Nigeria

Saturday, 19 December 2009

Dear all,

Congratulations to our Newsletter Editor for keeping open this valuable avenue of communication between us all; well not quite all as so many of our colleagues have no internet access.

Those of my readers who are from Nigeria will I hope forgive me for telling them things they are familiar with; saying some things which they may not agree with or missing out important cases and issues. As to the latter they can correct the first and supplement the second.

The letter is written from Kaduna since was advised that it would be unsafe for me to travel to Port Harcourt (in the oil delta region) where my wife is at least until the 'Christmas rush' – of kidnappings – has abated a little!

I went to Zaria for the first time in over 20 years. It is one of the older and most prestigious universities in the North – the University of Ahmadu Bello or ABU as it is referred to. I am attaching a photo of one of the very common roadside markets at which most people buy much of their fruit and vegetables.

Justice A L Kutigi, the Federal Chief Justice retires at the end of the year – his successor has just now been announced and approved by Senate Justice Aloysius Katsina-Alu. I hope that the Association will establish a relationship with him which will cement that started by Justice Muhammadu Lawal Uwais and continued by Justice Kutigi's presence in Cape Town. Unfortunately the initiative started in the time of Justice Uwais with Judge President of the Federal Court of Appeal Umaru Abdullahi and Justice L H Gummi appears to have foundered with Justice Abdullahi's retirement.

There is an opportunity in April, at the gathering of the Commonwealth Magistrates and Judges Association in Abuja, for judges from many Commonwealth countries to gather and at least discuss the Africa Chapter. Judges here also would like to be made aware of the proposed meeting in Morocco and at least one wishes to attend.

Trafficking, internal migration and displacement, the denial of full citizenship rights and violence toward women continue to occupy close attention in the country. The third issue, denial of full citizen rights is linked to the second in my view and as it is continent – and probably of global wide concern I want to say a little about it in this letter. A report in the Daily Sun for Monday December 14 this year (page 11) for example states '*..potential victims...are usually sourced from remote communities and ferried to...metropolitan cities...where they are later transported across the borders of western countries...'*

The denial of full citizenship rights as I recall rarely received much of a mention in any COI Report and yet it is at least potentially at the root of nearly every asylum application whether under the '51 convention or the '69 (O)AU Refugee Convention – not to mention the possibly even greater impact on families – women and children. Many of the cases which have come before the African Commission on Human Rights turned on a country's denial to either single countrymen (as in Zambia<sup>1</sup>) of groups (such as Guinea<sup>2</sup> and Ethiopia *en masse*). The issue is not confined to this continent either, as the Commonwealth Immigrants Act of 1962 testifies.

To quote a statement by a Ivorean, in the opening words to the Introduction in a book I recommend you read "*Struggles for Citizenship in Africa*" by Bronwen Manby<sup>3</sup> 'We needed a war because we needed our identity cards'.

The range of harmful acts perpetrated by a state toward its citizens, and others who have lived there often for generations, and whose actions it fears or dislikes or who belong to some group it can get away with removing from the voting lists, are not necessarily to be found on the statute books (though in fully half of the countries of the continent they can). More often than not they are bureaucratic, opaque – and denied. Observers from some western mission are unlikely to be aware of them and, as they will be denied. They are often directed at peoples the comfortable middle class city dweller has at best no knowledge of either; so little wonder COI reports make no mention of such matters.

It is a major deficiency and probably only capable of being filled when UNHCR and the AU gets down to filling it.

Of course not every harm will of itself amount to persecution - but more often than not when you look carefully the acts or results. The simple denial of a passport may not; denial of permission to travel within their own country could, depending on how it affects being able to exercise other rights or just to survive. Wholesale deportation without any recourse such as Nubians, Somalis in Kenya (allegedly!), Eritreans (possibly) and so on certainly in the manner it has so frequently occurred undeniably.

Of course to be made aware of this potential is a good start but the evidence to substantiate such a claim is less easy for someone tot who is totally unacquainted with the whole background.

Training can help; more complete background information would seem to be necessary but more important is the awareness that it is in all probability deficient.

Africa Judges reading doubtless will nod their heads in agreement but how much further the courts do, or can, go to provide remedies seems minimal and maybe this is why Chaloka Beyani sees the only hope lies in the supra-national Commissions and the African Court of Personal and Human Rights.

Till the next time – farewell - I had hoped to go to Ghana for Christmas but the airfares are prohibitive.

GEOFFREY CARE

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<sup>1</sup> *Legal Resources Foundation v Zambia* (2001) AHRLR 84

<sup>2</sup> *AHRDR v Guinea* 2004 Communication 249/02 57AHRLR

<sup>3</sup> An Open Society sponsored book pub Zed Books in 2009; ISBN 978 1 84813 351 8 hb