

**AN APPRAISAL OF THE IMPLICATIONS OF EXTRAORDINARY
RENDITION ON THE RIGHTS OF VICTIMS UNDER THE
NIGERIAN CRIMINAL JUSTICE REGIME * ****

ABSTRACT

The power of the state to engage in extraordinary rendition of its citizens has been a subject of controversy among persons of different strata both in Nigeria and all over the world. Many countries of the world adopt this practice in making sure that those who are suspected of having committed an offence are produced to stand trial. Several incidents of extraordinary rendition over the world have raised the question of the legality or otherwise of the process as well as its implication on human rights. It is against this background that this work examines the legality or otherwise of extraordinary rendition under the Nigerian criminal justice regime and goes on to identify its implications on the rights of victims. It was discovered that extraordinary rendition does not conform to the principles regulating the administration of criminal justice in Nigeria. It also violates the established national and international laws on extradition. It was further discovered that it usually results in the violation of the fundamental rights of victims of the process. In consequence of the foregoing, this work recommended the need for an international law regime that punishes states that indulge in extraordinary rendition. The work also recommends improved national and international regimes in this area.

Keywords: Human Rights, Rendition, Extradition, Extraordinary Rendition, Crime.

1.0. Introduction

One of the basic tenets of the Nigerian Criminal Justice System is that anybody who commits a crime punishable by a known law is to be tried in a court with the requisite jurisdiction in Nigeria.¹ Thus, if a person is suspected to have committed a crime in

* **Anthony Onah** Lecturer, Department of Commercial and Property Law, Faculty of Law, Nnamdi Azikiwe University, P.M.B. 5025, Awka, Anambra State, Nigeria. Email: ac.onah@unizik.edu.ng; chineduonah@nigerianbar.ng. Phone Number: +2348064794333

** **Daniel Nwuzor Ph.D** Lecturer, Department of Jurisprudence and International Law, Faculty of Law, Ebonyi State University, Abakaliki, Ebonyi State, Nigeria. Email: dyke_chidon@yahoo.com, Phone Number: +2347037286296

Nigeria, the prosecution is to bring a charge against such person in the appropriate court where the trial is to hold.

However, there are instances where some persons commit crimes and flee out of the country, either before arraignment or in the course of trial. By leaving the country, they abscond from trial and make it impossible for the trial to continue. It therefore becomes necessary that, in order for the court to be able to try such persons, a procedure be developed to ensure that such persons are brought back to the country for trial. The legal process by which this is done is called extradition.

Extradition is an act where one jurisdiction delivers a person accused or convicted of committing a crime in another jurisdiction, over to their law enforcement.² It can also be defined as 'the official surrender of an alleged criminal by one state or country to another having jurisdiction over the crime charged'.³ It is regulated by the extradition laws of various countries and various extradition treaties between states. In Nigeria, this process is primarily regulated by the Extradition Act.⁴

There also appears however to be another procedure by which fleeing suspects or convicts are brought back to a jurisdiction where they are alleged to have committed an offence for interrogation and trial without following the provisions of the laws and treaties. This is known as extraordinary rendition.

It must be observed that one of the high points of modern social organization is the emergence of Sovereign Nation States. A major feature of sovereignty is the freedom from interference in the affairs of one Sovereign State by another Sovereign State.⁵ Waltz has rightly pointed out that the international system of law and order is an anarchic system because of the absence of any sovereign body which governs the interactions between autonomous nation states that is clothed with competence to play the role of an enforcement agency.⁶

Sovereignty is the central attribute of the state as a form of political organization. Sovereignty and statehood have become so closely interlinked that a non-sovereign

¹ Constitution of the Federal Republic of Nigeria as Amended, s. 36(4).

² D. A. Sadoff, *Bringing International Fugitives to Justice: Extradition and Its alternatives*. (UK: Cambridge University Press, 2016) 43.

³ B. A. Garner, *Black's Law Dictionary* (10th ed, St. Paul: Thomson Reuters, 2014), 704.

⁴ Cap E25, LFN, 2004.

⁵ T. C. Eze, 'Exploring the Politics and Law of Extradition in International Relations' (2021) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, Vol 12 No. 2. pp 34-56.

⁶ K. Waltz, *Realism and International Politics*, (United Kingdom: Google Books. 2008), pp 34-56. See also T.C. Eze, *op cit*.

state tends to be regarded as only a quasi-state. Sovereignty signifies simultaneously a right to act and a power to act.

Sovereignty manifests itself in different forms, and this largely accounts for the varying definitions that are given of it. Seen from one angle, the right and power of sovereignty is exercised over territory, and is akin to the right and power of possession or ownership of a portion of the earth's surface. This ownership of territory includes in turn a right and power over all that exists within the territory.

Sovereignty can be defined more narrowly as the right and power to make the ultimate or final decision about the terms of existence of a whole territorially-based body politic. It denotes a central core of right and power to determine for and by oneself and not at the command of others, the fundamental issues relating to one's existence. No external body has the right to command or order a sovereign state to act in a given way about matters of fundamental concern to it.⁷

Thus, where an individual commits a crime in a country and absconds to another country, there are usually certain legal implications. These implications may relate to the administration of criminal justice or to the sovereignty of the State to which the suspected criminal has absconded to. On the implications to the administration of criminal justice, there is an issue of the justice that has not been served for the victim of the crime as well as the society. There is also a risk that the perpetrator may commit another crime without having been punished for the first crime. On the issue of sovereignty, it may relate to the power of the prosecuting state to interfere with the sovereignty of another to which the person suspected of having committed a crime absconds to.

The above underscore the need for a system that allows countries to ensure that criminals who have fled to other countries are brought back to conclude trial so that the law will take its course. In this wise, laws have been made at both municipal and international levels, to establish a process that ensures that persons facing trials or about to face trials are brought under the control of the relevant jurisdictions. This process is known as extradition. There are procedures established by laws of various nations on how this process is to be carried out.

However, there are instances when a state may not make a request that a suspected criminal who has committed a crime within its jurisdiction and absconded to another State be returned to it. In such instance, the State in which the crime is committed, by itself, goes into the territory of another State and 'abducts' the suspected criminal. In

⁷ E. A. Oji and M. V. C. Ozioko, 'Effect of Globalisation on Sovereignty of States' (2011) *Journal of International Law and Jurisprudence* Vol 2, p. 5.

some instances, this is done without the permission or knowledge of the State to which the suspected criminal has absconded to. This is known as extraordinary rendition.

A lot of problems arise when a country resorts to an unlawful manner such as abduction and torture in bringing a wanted criminal to face criminal proceedings. It is against the foregoing background that this work examines the legality or otherwise of the concept of extraordinary rendition under the Nigerian criminal justice system and its implications on the rights of victims.

2.0. The Conceptualization of Extradition, Rendition and Extraordinary Rendition

2.1. Rendition

The concept of rendition is very complex and controversial. In law, rendition is ‘the return of a fugitive from one state to the state where the fugitive is accused or was convicted of a crime’.⁸ Rendition more specifically refers to the transfer of an individual from one country to another, often with the purpose of detention or interrogation.⁹ This can occur with or without the consent of the country from which the individual is being transferred. Rendition may also be defined as the transfer of a fugitive criminal from the country of residence to the accusing country. For this to be made possible, there must be a crime that the fugitive criminal is charged with in the accusing country.¹⁰

There are two types of rendition: ‘extraordinary rendition’ and ‘diplomatic rendition’. Extraordinary rendition refers to the transfer of individuals without any legal process or oversight, often to countries where they may face torture or other forms of mistreatment.¹¹ Diplomatic rendition, on the other hand, refers to the lawful transfer of individuals between countries, often as part of extradition proceedings.¹² The rendition process enables governments to bring fugitives abroad to justice, but it can be fraught with political tension, even when a treaty is in place.

⁸ B. A. Garner, *op cit*, 1487.

⁹ S. Egan, *Extraordinary Rendition and Human Rights*, (Springer International Publishing Vol 2, No 3, 2019) pp 221.

¹⁰ *Ibid*.

¹¹ J. Fitzpatrick, ‘Rendition and Transfer in the War against Terrorism’, *Loy. LA Int’l & Comp. Law Review*, Vol 6, No 2, 2002) pp 303.

¹² J. D. Boys, ‘What’s So Extraordinary About Rendition’, (2011) *The International Journal of Human Rights* Vol 8, No 9, 176.

2.2. Extradition

In strict legal parlance, the term extradition denotes the process, under treaty, or on the basis of reciprocity, where one State surrenders to another State at its request, a person, accused or convicted of a criminal offence, committed against the law of the requesting State having jurisdiction over the extraditable person.¹³

Extradition is the formal process involving one state surrendering a person to a different state for prosecution for crimes they committed in the requesting country. It may also be defined as the process by which one state, upon the request of another, effects the return of a person for trial for a crime punishable by the laws of the requesting state and committed outside the state of refuge.¹⁴

Extradition as an act of international cooperation for the repression of criminal activities of the criminal offenders is one of the various models whereby one sovereign state delivers up the alleged accused criminals found within its jurisdiction, on-demand, to another sovereign state, so that they might be dealt with according to the penal laws.¹⁵ Extraditable persons include those charged with a crime but not yet tried, those tried and convicted who have escaped custody, and those convicted in *absentia*.¹⁶

Generally, for a successful extradition process, there must exist an extradition treaty; two countries, and most importantly, a fugitive. The extradition clause requires countries to have bilateral or multilateral treaties, although not all countries require these treaties to extradite. Nevertheless, the main purpose of extradition is to ensure that people who are alleged to have committed atrocious crimes undergo a prosecution in respect of those crimes under the legal regime in which the crimes were allegedly committed.

Extradition has evolved among states because they are mutually interested in the repression of crimes and punishment of criminals who violate their national laws and thus disturb the general peace of the society.¹⁷

¹³ T. Hillier, *Sourcebook on Public International Law* (USA: Google Books, 1998).

¹⁴ Britannica online dictionary 'Extradition' <<https://www.britannica.com/topic/extradition>> accessed on 26/05/2023.

¹⁵ V. Stefanovska, 'Extradition as a Tool for Inter-State Cooperation: Resolving Issues about the Obligation to Extradite', (2020) *Journal of Liberty and International Affairs*, 2(1), 38-48. Retrieved from <https://e-jlia.com/index.php/jlia/article/view/59> accessed on 26/05/2023.

¹⁶ G.J. Andreopoulos 'Extradition' (Britannica, 2023) <<https://www.britannica.com/topic/extraditio>> accessed on the 1st March 2023.

¹⁷ V. Stefanovska, *op cit*.

It is pertinent to observe that Extradition is a matter of international law, in the sense that it requires the participation of two or more countries. It also relies on principles that have emerged through international customary and treaty law. The international legal system is built on an assumption that states (countries) are equally entitled to non-interference in their domestic affairs.¹⁸

Article 2 of the United Nations Charter also makes clear the significance of political independence, territorial integrity and domestic jurisdiction to the status of a country. According to the territoriality principle of International Law, crimes committed within a country's territorial jurisdiction are subject to prosecution within the territory. This is so whether the person accused of the crime is a national of the prosecuting country or not. However, extradition as a process is not governed by an international treaty regime or overseen by the United Nations.¹⁹ It typically involves a treaty between two states.²⁰ If one country agrees to extradite a person to another, this is done as a matter of comity rather than because of a legal obligation.²¹ It is a cooperative law enforcement process between the two jurisdictions and depends on the arrangements made between them. Besides the legal aspects of the process, extradition also involves the physical transfer of custody of the person being extradited to the legal authority of the requesting jurisdiction.²²

Treaties also define instances when extradition is to be denied. For instance, authorities generally cannot extradite individuals for military or political offenses, with the exceptions of terrorism and other violent acts.²³ Some states will not extradite to jurisdictions with capital punishment or life imprisonment under any circumstances, or unless the requesting authority pledges not to impose those penalties.²⁴

¹⁸ S. D. Krasner, *Problematic Sovereignty: Contested Rules and Political Possibilities*, (New York: Columbia University Press, 2001) pp. 6–12. <https://books.google.com.ng/books?id=ISqwQIBQff4C&lpg=PA7&pg=PA7&redir_esc=y#v=onepage&q&f=false> Accessed 15/5/2023; M. Bolt, 'The Changing Face of Sovereignty', *E-International Relations Students*, < <http://www.e-ir.info/2013/10/17/the-changing-nature-of-sovereignty/>> Oct 17 2013, 10514 views Accessed 15/5/2023.

¹⁹ A. Hassan 'Extradition' Available from: <https://www.researchgate.net/publication/340538712_Extradition> accessed on 28/05/2023.

²⁰ J. Masters 'What is Extradition' (Council on Foreign Relations, 2020) <<https://www.cfr.org/backgrounder/what-extradition>> accessed on 23/05/2023.

²¹ *Ibid.*

²² D. A. Sadoff, *op cit...*

²³ JRJ Jones & R Davidson, *Extradition and Mutual Legal Assistance Handbook* (London: Oxford University Press, 2010), p 20.

²⁴ *Ibid...*

There is a distinction between extradition and deportation. Deportation is the process where a competent authority requires a person to leave a territory and prohibits him from returning to it.²⁵ There is also a difference between international extradition and interstate extradition. International extradition involves extradition from one country to the other while interstate extradition is the situation where a fugitive is sent from one state within a country where he is found to the requesting State in that same country.²⁶ This is usually upon the demand of the government of such a requesting State.

The latter practice is commonplace in true federating nations such as the United States of America where the police authority of each state is autonomous. The procedure for this kind of extradition is clearly spelt out in the Constitution of the United States.²⁷ In Nigeria, there is one central police force under the 1999 Constitution vested with powers to arrest offenders in any part of the country for trial in the court of any state that has jurisdiction to try the alleged crime. There is no extradition request or order required for such arrests or prosecution.²⁸

According to Hillier, the justification for extradition is that it is in the interest of the global criminal justice system not to allow offenders who have committed heinous crimes to go unpunished as well as the fact that there will be sufficient evidence in the country where the offence was committed to bring the offender to justice.²⁹

2.3. Extraordinary Rendition

At times, the transfers of persons from one State to another for trial or interrogation are effectuated through extrajudicial transfer. This extrajudicial transfer is what is called extraordinary rendition. It refers to any occasion on which the obtaining of custody over a person is, for one reason or another, not in accordance with the existing legal procedures applying in the State where the person was situated at the time.³⁰

Extraordinary rendition is an extrajudicial procedure in which criminal suspects, generally suspected terrorists or supporters of terrorist organisations, are transferred from one country to another.³¹ The procedure differs from extradition as the purpose of

²⁵ K. Momodu, 'Extradition of fugitives by Nigeria' [1986] 35(5) *International and Comparative Law*.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ T. Hillier, *op cit.*

³⁰ S. Gupta 'The Law of Rendition and Extradition' (ipleaders, 2021) < <https://blog.ipleaders.in/law-rendition-extradition/>> accessed on 28/05/2023.

³¹ M. J. Garcia, *Renditions: Constraints Imposed by Laws on Torture* (US: United States: Counter-Terrorism Training and Resources for Law Enforcement, 2009.)

the rendition is to extract information from suspects, while extradition is used to return fugitives so that they can stand trial or fulfil their sentence. In other cases, extraordinary rendition may take place without the assistance of local authorities or in violation of local laws. Extraordinary rendition is extraordinary because it circumvents official legal structures and processes to detain suspected criminals.³²

It can be also be seen as an extra-judicial practice which contravenes established international human rights standards and whereby an individual suspected of involvement in terrorism is illegally abducted and transported to another country for interrogation which, in the majority of cases, involves detention and torture.³³

The use of extraordinary rendition by Nigeria and other countries has been perceived to be highly controversial and widely criticized. Some persons have argued that extraordinary rendition violates international law and human rights, as well as the basic principles of due process and fair trial³⁴. Others argue that it is a necessary tool in the fight against terrorism and other forms of violent extremism.³⁵ It must be observed however that one thing that can be taken away from the forgoing discourse, is that rendition is a complex and controversial issue that touches on many important legal, ethical, and political debates.

3. The Procedure for Extradition under the Nigerian Criminal Justice System

In order to carry out an extradition, countries typically follow a set of strict procedures that is outlined in accordance with domestic law and, where applicable, international treaties. In practical terms, this means that the process generally unfolds through a well-defined set of steps in which the Requesting country formally requests the extradition of a fugitive or wanted individual from the Sending country in which they currently reside.

In Nigeria, Extradition is governed by the Extradition Act made in 1966 and the relevant international treaties to which Nigeria is a party. The Extradition Act was greatly influenced by the extradition case of Chief Anthony Enahoro in 1963 which

³² C. B. Okosa 'Extraordinary Renditions: Nigeria Finally Joins the Elite League' (2021) *UNIMAID Journal of Private and Property Law* [2021] 6(2).

³³ *Ibid.*

³⁴ N. E. Kalu, 'Extraordinary Rendition: The Nigerian Experience' (2012) *Journal of Politics and Law* Vol 5, No 3, pp 230.

³⁵ U. Okeke, 'The Nigerian Government and Extraordinary Rendition: An Appraisal of the Legal Framework and Policy' (2013) *Journal of African Law* Vol 50, No 1, 19.

revealed the inadequacies of the Fugitive Offenders Act 1881.³⁶ Other countries also have their own Extradition Laws. However, some principles are common to most municipal laws that regulate extradition. These common principles are that there must be an extraditable person as well as an extraditable crime.³⁷ Further, it is a general principle of the law of extradition that an offender should not be tried by the requesting state for any offence other than the one for which he is extradited.

As earlier pointed out, there is no existing right to extradite a fugitive. A State is not under any compulsion under international law to surrender a fugitive criminal to another State because of the principle of sovereignty. The right must derive as an obligation, either from an existing bilateral or multilateral treaty or on the basis of reciprocity and common understanding between two countries.³⁸ Extraditable crimes are usually listed in the extradition agreements entered into between countries. Political crimes, military offences and religious offences are usually not extraditable. Another common ground is that of mutual criminality, i.e. the act constituting an extraditable offence must be classified as a crime in both the requesting and the surrendering state.

By virtue of section 1 of the Extradition Act, where a treaty or extradition agreement has been made by Nigeria with any other country for the surrender, by each country to the other, of persons wanted for prosecution or punishment, the President may by order published in the Federal Gazette apply the Act to that country. In *Emmanuel Ehidiomhen Okoyomon v the Attorney General of Federation*,³⁹ counsel to Okoyomon sought to challenge the jurisdiction of the Court in granting the extradition order and also held that no extradition treaty exists between Nigeria and the UK, the court of Appeal, however, affirmed the judgement of the Federal High Court and allowed the extradition order. The Court of Appeal held that contrary to Okoyomon's contention in his appeal, Nigeria had an obligation under the London Scheme for Extradition to extradite a person for an offence to another Commonwealth country.⁴⁰ The London Scheme enables Commonwealth countries to extradite fugitive criminals to each other upon the presentation of prima facie case evidence and in the absence of an extradition treaty.

³⁶ J. Eke, 'Mainstreaming the Legal and Institutional Frameworks on Extradition in Nigeria' (2012) *Peer Reviewed Journal* 3(1), <<https://www.peerreviewedjournal.com.ng/wp-content/uploads/2022/03/mainstreaming-the-legal-and-institutional-frameworks-on-extradition-in-nigeria.pdf>> accessed on 28/05/2023.

³⁷ T. C. Eze, *op cit*.

³⁸ *Ibid*.

³⁹ (2015) LCN/8027 (CA)

⁴⁰ See also E. Ekpenyong, 'Tradition of Foreign Nationals to Nigeria to Face Criminal Prosecution' (2022) <<https://www.mondaq.com/nigeria/crime/1184814/extradition-of-foreign-nationals-to-nigeria-to-face-criminal-prosecution>> accessed on 31/07/2023

By virtue of section 2, the Act shall apply to every separate country within the Commonwealth. By virtue of section 3, fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that the offence in respect of which his surrender is sought is an offence of a political character; or he is likely to be prejudiced at his trial, or to be punished, detained or restricted in his personal liberty, by reason of his race, religion, nationality or political opinions; or that he has stood trial for the offence; or criminal proceedings are pending against him in Nigeria for the offence for which his surrender is sought.

On the duty of the Attorney General of the Federation in an extradition proceedings, the Supreme Court held in *A.G. of the Federation v Anuebunwa*⁴¹ that pursuant to Sections 3, 9, and 11 of the Extradition Act, the Attorney General of the Federation must file an affidavit stating *inter alia* that the requesting country has submitted a request to the Attorney-General who must be satisfied that provision is made by the Laws of the requesting country. He is satisfied that the offence in respect of which the Respondent's surrender is sought is not an offence of a political character and he is satisfied that the request for the surrender of the Respondent was not made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions and that the said request was made in good faith and in the interest of justice. The Attorney General of the Federation must also show by affidavit evidence that if the Respondent is eventually surrendered, he will not be prejudiced at his trial and will not be punished, detained or restricted in his personal liberty, by reason of his race, nationality or political opinions, and he is satisfied that the offence for which the Respondent's surrender is sought is not trivial in nature or that having regard to all the circumstances in which the offence was committed it will not be unjust or oppressive, or be too severe a punishment, to surrender him. It must be averred furthermore, that the Attorney General is satisfied that the Respondent has been indicted of the offence for which his surrender is sought but that he is unlawfully at large, and, there is no criminal proceeding pending against him in Nigeria for the offence for which his surrender is sought, or any other offence for the time being.

It must be noted that the power conferred on the Attorney General to determine if an application is competent in relation to section 3 of the Act is very wide. The Attorney General of the Federation however has the power to refuse extradition request without referring same to the court pursuant to section 3 of the Act.⁴² It is only when the request has been transferred to the court that the judicial process of inquiring into the case and

⁴¹ (2022) LPELR-57750(SC)

⁴² C. B. Achinike, 'A Look at the Law of Extradition in Nigeria *vis-a-vis* Buruji Kashamu and the Possible Implications for DCP Abba Kyari' (2021) < <https://www.monday.com/nigeria/white-collar-crime-anti-corruption--fraud/1138858/a-look-at-the-law-of-extradition-in-nigeria-vis-a-vis-buruji-kashamu-and-the-possible-implications-for-dcp-abba-kyari>> accessed on 31/07/2023

the competence of the request can entertained. However, where the Attorney General decides that the request is precluded by section 3, then nothing can be done about it. In this wise, that the Court of Appeal held in the case of *George Udezor v Federal Republic of Nigeria*,⁴³ that nothing in the Act gives the court the powers to question the discretion of the Hon. Attorney General in those matters, as the Hon. Attorney General exercises his constitutional duty under section 174 of the 1999 constitution. Extradition proceeding is in fact purely at the discretion of the Attorney- General and the purpose of hearing an extradition proceeding is to determine whether the requisition made shows sufficient cause to warrant extradition.⁴⁴

The implication of the foregoing decision is that in any case requiring the exercise of the Attorney General's discretion in the discharge of his duties under the Act, there must always be a presumption of regularity in the performance of his official duty.⁴⁵

It is also pertinent to observe that the Attorney General has the authority, notwithstanding that the court has been satisfied of the competence of the extradition request, and that an order has been made for the committal to prison of the fugitive, to order the surrender of the fugitive. Furthermore, the Attorney General may refuse to give such order for the surrender of the fugitive to the requesting state if it appears to him that the surrender is precluded by law, notwithstanding the fact that the court has held that fugitive extraditable.⁴⁶ The power in respect of whether or not to order the surrender of a fugitive criminal who after the inquiry of the court has been committed to prison is a wild power which in a sense permits the Attorney General to review the decision of the court.⁴⁷ This wild power seems acknowledged by the court when it held in *Udezor v FRN*⁴⁸ that:

The discretion to accede to an extradition request is that of the Hon. AG of the federation, not of the court. The role of the court is to issue warrant and undertake such other adjudicatory functions as are required to enhance the statutory powers of the AG.

Sections 6-8 of the Act provides the procedure for the request for the surrender of a fugitive criminal and the power of the Attorney General and the Federal High Court

⁴³ (2007) LPELR-CA/L/376/05

⁴⁴ *A. G. of the Federation v Anuebunwa (supra)*

⁴⁵ A. T. Bello, 'Legal Stencil on Extradition Law in Nigeria: An Evaluation' (May, 2019) <https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2970989_code2703449.pdf?abstractid=2970989&mirid=1> accessed on 31/07/2023

⁴⁶ Section 10 (b), Extradition Act.

⁴⁷ *Ibid.*

⁴⁸ *Supra.*

with respect to such requests.⁴⁹ From the said sections 6-8, it is deducible that under the Nigerian Extradition Act, fugitive criminals can only be extradited from Nigeria upon the request of a country with which it has a bilateral treaty on extradition. Secondly, fugitive criminals who commit crimes in commonwealth countries can be extradited to those countries under the Act upon the request of the government of the countries where the crimes were committed.⁵⁰

The London Scheme of Extradition within the Commonwealth enables Commonwealth countries to extradite fugitive criminals to each other upon the presentation of *prima facie* case evidence and in the absence of an extradition treaty. Before an extradition order can be made under the Scheme, a *prima facie* case must be established against the suspect. The Scheme is the basis for Section 2 (2) of Nigeria's Extradition Act, which provides that the Act is applicable to every independent and sovereign commonwealth country.⁵¹

In addition, Section 1 of the Act also empowers the president to extend the Act to any country with which Nigeria has entered into a treaty with in respect to the surrender of persons wanted for prosecution or punishment. Therefore, the President may, by an order published in the Federal Gazette, apply the Act to such a country.

The guiding principle in the operation of the Nigerian Extradition Act is reciprocity in line with the realist theory of international relations. The Act is expected to only apply with respect to requesting countries that have provisions in their municipal laws that are *in pari materia* with what is contained in the Nigerian Extradition Act.⁵²

Procedure for Extradition under the Extradition Act

Extradition proceedings usually begin with a diplomatic request to the sending state, where the suspect or defendant is located, for extradition.⁵³ The requesting countries must give facts about the suspect, the alleged offenses, and supporting documentation, such as warrants, indictments or statutes showing that the offense of the suspect or convict is an offense under the statute of the requesting country, as well as evidence of

⁴⁹ See the Extradition Act (Modification) Order 2014 by which President Goodluck Jonathan, in exercise of the powers conferred on him by section 315 of the Constitution, changed the word 'Magistrate' to 'Judge of the Federal High Court and the word 'Court' to mean 'Federal High Court' so as to bring the applicability of the Extradition Act in consonance with the provisions of the 1999 Constitution that provides for the jurisdiction of the Federal High Court with respect to extradition matters.

⁵⁰ Section 2 of the Extradition Act.

⁵¹ E. Ekpenyong, *op cit*.

⁵² T. C. Eze, *op cit*, p. 44.

⁵³ Section 2 of the Extradition Act.

the crime.⁵⁴ If those materials are sufficient, officials in the sending state will arrest the suspect and hold a hearing to assess whether extradition under the treaty is warranted. If a *prima facie* case is disclosed, a court order is granted and then the Attorney General can instruct that the suspect or convict be given to the requesting country to answer for his crimes there.⁵⁵

The process may vary depending on the specific circumstances of the case and the requirements of the requesting country. The procedure for extradition under the Extradition Act in Nigeria can be summarized as follows:

1. Request for Extradition: The first step in the extradition process is the request for extradition from the requesting country. The request must be in writing and must be addressed to the Attorney General of the Federation.⁵⁶
2. Provision of Information: The requesting country must provide detailed information about the alleged offense, the identity and location of the person sought, and any other relevant information.⁵⁷
3. Review of Request: The Attorney General of the Federation will review the request and determine whether it meets the requirements of the Extradition Act.⁵⁸
4. Issuance of Arrest Warrant: If the request is approved, the Attorney General of the Federation will issue a warrant for the arrest of the person sought.⁵⁹
5. Arrest and Detention: The warrant will be executed by the Nigerian authorities, and the person sought will be arrested and detained pending the extradition proceedings.⁶⁰
6. Hearing: The person sought will be brought before a court and informed of the charges against them. The court will also determine whether the person sought is eligible for extradition under the Extradition Act.⁶¹

⁵⁴ Section 7 of the Extradition Act.

⁵⁵ Section 2 of the Extradition Act.

⁵⁶ Section 2 of the Extradition Act.

⁵⁷ Section 7 of the Extradition Act.

⁵⁸ Section 12 of the Extradition Act.

⁵⁹ Section 9 of the Extradition Act.

⁶⁰ Section 8 of the Extradition Act.

⁶¹ Section 11 of the Extradition Act.

7. Surrender: If the court determines that the person sought is eligible for extradition, the Attorney General of the Federation will authorize the surrender of the person to the requesting country.⁶²

8. It must be observed that the powers of the court in respect of extradition of a fugitive respondent is limited. The purpose of extradition hearing upon the application of the Attorney-General is not to conduct a criminal trial of the fugitive respondent. Rather it is to invoke the exercise of the judicial powers of the Court over the fugitive as the Court would over a defendant standing trial before it. In the circumstance, those powers are preliminary to the eventual trial of the fugitive accused, such as the power to remand or to release on bail pending the completion of investigation.⁶³

9. Extradition hearing is not a full blown trial and the Attorney-General of the Federation is only expected to establish *prima facie* evidence, before a judge in the case of a fugitive criminal. The reference to the appropriate Court in Section 9(1) of the Extradition Act is to confer on the trial Court, the special jurisdiction and powers to perform the preliminary judicial functions requisite to enhance the administrative processes for the completion and execution of the request of the Attorney-General to surrender the alleged fugitive criminal to the requesting country. The fugitive is not standing trial for the offence for which the extradition order is sought.

10. To perform this function, the judge uses the standard that is required before the Courts in Nigeria in committing a defendant to face trial which is the establishment by the prosecution of a *prima facie* case. In Nigerian jurisprudence, a *prima facie* case means that there is reason for the Court to continue the proceedings, in this case, to order the surrender of the fugitive to the requesting state for the trial or to serve his sentence.⁶⁴ The evidence must be sufficient to warrant a Court to commit the fugitive to face trial. Thus, *prima facie* evidence is evidence good and sufficient on its face.

It is pertinent to submit that any rendition to Nigeria which does not conform to the forgoing procedure violates the law on rendition as it applies to Nigeria and thus is an extraordinary rendition.

4.0. Extraordinary Rendition and Implications on the Rights of a Victim

The issue of human rights is central to much legal thinking today⁶⁵ and the protection of human rights is an indispensable responsibility of every state and has, in recent

⁶² Part 2 of the Extradition Act; see also.

⁶³ *A.G. of the Federation v Anuebunwa (supra)*.

⁶⁴ *A.G. of the Federation v Anuebunwa (supra)*; See also *Agbo & Ors v State* (2013) 11 NWLR Pt. 1365 Pg. 377.

⁶⁵ MDA Freeman, *Lloyd's Introduction to Jurisprudence* (9th ed., London: Thomson Reuters, 2014), 1288.

decades, occupied a prominent and focal point in global agenda. This is more so as it relates to the rights of an accused person in the criminal justice system of any nation. In Nigeria, as it is obtainable in almost all parts of the world, there are constitutional guarantees established for the protection of the rights of accused persons in criminal proceedings.

Human right has been defined as the 'universal rights or enabling qualities of human beings attaching to the human being wherever he appears, without regard to time, place, colour, sex, parentage or environment'.⁶⁶ It has also been defined as the freedoms, immunities and benefits that, according to modern values...all human beings should be able to claim as a matter of right in the society in which they live.⁶⁷ Human rights constitute those rights recognized by the international community as inuring to all persons by the very fact of their humanity⁶⁸. The Helsinki programme defined human right as:

*The right to be free from governmental violations of the integrity of the persons...the rights to the fulfilment of such vital needs as food, shelter, health care and education...and the right to enjoy civil and political liberties.*⁶⁹

Human rights are usually categorized into three groups, namely: civil and political rights; social, economic and cultural rights; and group/collective rights. These rights are collectively called first, second and third generation rights.⁷⁰ The concept of human rights is closely linked to ethics and morality⁷¹.

The first generation of rights known as the basic human rights includes the right to life, to dignity of human person, to fair hearing. They represent the penumbra of attainable ideal, which every legal system must reach as the price of its preservation.⁷² It is the

⁶⁶ A.J. Lien, *A Fragment of Thoughts Concerning the Nature and Fulfilment of Human Rights* (USA: Greenwood Press Publishers, 1973) pp 44-45.

⁶⁷ B.A. Garner, *op cit*, p 809.

⁶⁸ U.O. Umozurike, *Introduction to International Law* (Ibadan: Spectrum Books Limited, 1993), 141.

⁶⁹ Helsinki Act: The final Act of the Conference on Security and Co-operation in Europe signed in Helsinki (Finland) on 1/8/75, by the US, Canada and 33 European countries setting out 'Fundamental' Principles of Freedom in a 'Third Basket' of agreement to guide relations between signatories, including self-determination of people. It is neither a treaty nor legally binding but carries considerable weight because it was signed at the highest level in recognition of boundaries of post-war nations in Eastern Europe. The Webster's Dictionary, the English Language, Deluxe ed, adopted this definition of Human Rights.

⁷⁰ O.C. Eze, *Human Rights in Africa* (Lagos: Macmillian 1984) pp. 5-8.

⁷¹ M.N. Shaw, *International Law* (6th ed., Cambridge: Cambridge University Press, 2008)266.

⁷² H.J. Laski. *A Grammar of Politics* (5th edn, England: George, Allen & Unwin, 1967) p. 91.

duty and responsibility of all organs of government, and of all authorities and persons exercising legislative or judicial powers ensure the protection of these rights.

It is submitted that any form of rendition which does not follow the process prescribed by international law or municipal law in the process of transporting a fugitive from the country to which he has absconded to a prosecuting State is an extraordinary rendition and has serious implications for the rights of the subject of the rendition. We shall proceed to consider some of these rights affected by the concept of extraordinary rendition.

i. Right to Life

By virtue of Section 33 of the Nigerian Constitution, every person has a right to life irrespective of social status and circumstance of birth.⁷³ This is based on the sacrosanctity of human life.

To ensure compliance with this, the penal laws of the land provide the highest penalty in line with the *lex talionis* rule against any deliberate killing of any being by another.⁷⁴ The right to life will be only be deprived under the execution of the sentence of the court; in self-defence or defence of property; in order to effect lawful arrest or prevent the escape of a person lawfully detained or for the purpose of suppressing a riot, insurrection or mutiny. The right to life when stretched a little will extend to right to life by the provision of good water supply, adequate food supply and the provision of good medical care, employment, *et cetera*.

It is submitted that extraordinary rendition may lead to the loss of life of the victim of such rendition and this will violate such person's fundamental right to life. In this wise, it is submitted that process which threatens the life of a person violates their right to life.

⁷³ See also, Part 4 of the African Charter on Human and Peoples Right, (Ratification and Enforcement) Act, Cap A9 LFN, 1990; Universal Declaration of Human Rights (1948), Art. 3 and DJ Harris, *Cases and Materials on International Law* (6th ed., London: Sweet & Maxwell, 2004), 663.

⁷⁴ See the Criminal Code, Cap C38 LFN, 2004, s 319(1).

ii. Right to Dignity of Human Person

It has often been said that in actuality without dignity, there are no free men,⁷⁵ for dignity connotes the state or quality of being worthy or honourable.⁷⁶ This right is hinged upon the belief that a human being is intrinsically entitled to a minimum level of respect irrespective of social status or financial disposition. It is enshrined in the Constitution by virtue of Section 34, next in importance to the right to life.⁷⁷ It specifically prohibits slavery, torture or inhuman or degrading treatment and force labour exact under order of court or military ethics for military men reasonably necessary in the event of any emergency or calamity threatening the life or wellbeing of the community of any person.

An interpretation in this section is contained in the decision of the Court of Appeal, Enugu Division in the case of *Uzochukwu v Ezeonu II*.⁷⁸ The court taking liberty in defining critical terms held that the term 'torture' includes mental harassment as well as physical brutalization, while 'inhuman treatment' characterizes any act 'without feeling for the suffering of the others'.⁷⁹

It is submitted that extraordinary rendition has the tendency of subjecting the victim of the rendition to mental harassment as well as inhuman and degrading treatment and thus in breach of the fundamental right to dignity.

iii. Right to Personal Liberty

Section 41 of the Constitution⁸⁰ provides that:

(1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exist there from.

(2) Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society-

⁷⁵ P. Lumumba, *Fighter for Africa's Freedom*, Progress (Russia: Moscow Publishers 1961) p.156.

⁷⁶ R. W. Voorhees, *Funk & Wagnalls Standard Dictionary* (International Edition, US: Funk & Wagnalls Company, 1958)

⁷⁷ See also, Art. 5 of the African Charter, above.

⁷⁸ (1991) 6 NWLR (Pt. 200) 708.

⁷⁹ *Ibid.*

⁸⁰ See also, Art 6 of the African Charter.

(a) imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or

(b) providing for the removal of any person from Nigeria to any other country to:

(i) be tried outside Nigeria for any criminal offence, or

(ii) undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty:

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.

By virtue of this provision every citizen of Nigeria is entitled to move freely in Nigeria as well as in and out of it. A close study of this provision shows that right to personal liberty is not absolute. The draughtsmen of the Constitution in limiting the right to personal liberty are swayed by the need to balance the competing interests in the society; such as the need to ensure that the criminals are caught and that every law-abiding citizen goes about his lawful business without unnecessary interference.

Just as the right to personal liberty is not absolute, so are the limitations on the right to personal liberty neither arbitrary nor unlimited. Exceptions are set out specifying when a person can lawfully be deprived of his liberty⁸¹ and prescribing the maximum length of time a person may be detained without trial (it must not exceed the maximum period of imprisonment prescribed for the offence).⁸² The Constitution also defines the rights of an arrested person,⁸³ including his rights, to be taken to court within a reasonable time,⁸⁴ to be paid compensation and to be given a public apology for unlawful arrest or detention.⁸⁵

It is submitted that by the provisions of section 41 of the Constitution, extraordinary rendition violates the right to personal liberty. The Constitution by introducing the proviso, 'provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter', only envisages that rendition should be carried out in the manner provided under the Extradition Act. Thus, any rendition carried out

⁸¹ The Constitution of the Federal Republic of Nigeria, 1999, Section 35 (1)(a) and (f).

⁸² *Ibid*, s 35 (1).

⁸³ *Ibid*, s 35 (2) and (3).

⁸⁴ *Ibid*, s 35 (4).

⁸⁵ *Ibid*, s 35 (4), See also *C O P v Obollo* (1989) 5 NWLR (Pt. 130) 5.

contrary to the provisions of the Extradition Act, violates the right of Accused to personal liberty.

iv. Right to Fair Hearing

Fair hearing is a concept towards the attainment of justice. Thus, Ajomo observed that the painstaking observation of the right within any society means that the foundation of such a society is rooted in justice, and its citizens can be reassured of fair play at all times.⁸⁶ Section 36(1) of the Constitution⁸⁷ provides *inter alia*:

In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality.

This right is the most commonly agitated rights in our courts with parties to any disputes given the freedom to understand the issues in dispute, opportunity to defend themselves and by counsel of their choice.⁸⁸ In *Federal Civil Service Commission v Laoye*.⁸⁹ the Supreme Court observed *inter alia*:

The duty of the court is to protect the right of the individuals in a democratic society governed by the rule of law. That protection must necessarily be accorded to an individual deprived of his office without due adherence to the rules made specifically to govern appointment and the removal...

It has also been held in *Sokoto State Government v Kamdax Nigeria Ltd*⁹⁰ that the right to fair hearing is not negotiable. It is submitted that extraordinary rendition violates this right because it allows for the rendition of an accused person without Extradition Proceedings as provided under the Extradition Act.

It is pertinent to observe that beyond the national regime, extraordinary rendition also violates international laws; for instance, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) which was

⁸⁶ M. A. Ajomo, 'Fundamental Human Rights Under the Nigerian Constitution' in C Akpangbo ed., *Perspective on Human Rights* (Lagos: NIALS, 1992) p. 84

⁸⁷ See also, Art. 7 of the African Charter.

⁸⁸ *Udofia v The State* (1988) 3 NWLR (Pt 84) 533.

⁸⁹ (1989) 2 NWLR (pt. 106) 652; *S & D Const. Co. Ltd v Ayoku* (2011) All FWLR (pt. 604) p.

1

⁹⁰ (2004) 9 NWLR (pt. 879) 345.

adopted by General Assembly resolution in December 2006 and came into force on 23 December 2010.

The Convention provides that no one shall be subject to enforced disappearance without exception, even in time of war or other public emergency. It also obliges States parties to criminalize enforced disappearance and make it a punishable offence.⁹¹ It also provides that enforced disappearance constitutes a crime against humanity when practiced in a widespread or systematic manner.⁹²

Extraordinary rendition also violates the provisions of UN Convention against Torture, and other Cruel, Inhumane and Degrading Treatment or Punishment. Article 1 of the Convention defines torture to mean any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁹³

There is no doubt that extraordinary rendition inexorably results in mental torture for its victims and thus violates this Convention. Furthermore, Article 3 provides that no state shall extradite where they know that the refugee is at the danger of torture by the requesting state. The implication of extraordinary rendition on this provision is that there is no consideration for the reason for the rendition; and this is against the dictates of international law.

In the light of the discourse above relating to rendition, extradition and extraordinary rendition, it now becomes pertinent to examine the forceful return of Mazi Nnamdi Kanu from Kenya to Nigeria as the legality of his rendition to Nigeria has been a subject of controversy.

In the said case, it is the position of Nigeria that Mazi Nnamdi Kanu was arrested as a result of collaborative efforts between Nigerian and Kenyan Security Agencies and forcefully brought back to Nigeria to continue with his trial. The Kenyan authorities on the other side have denied any involvement in the entire arrest and rendition claiming that the neither knew about it nor participated in it.

⁹¹ Article 1.

⁹² Article 1(1).

⁹³ UN Convention against Torture, Article 2.

It must be noted that Nigeria does not however have any bilateral treaty with Kenya on extradition of fugitives. There is also no evidence or record that a request for the rendition of Mazi Nnamdi Kanu was made by the Nigerian Government to the Kenyan Government. Kenya has denied receiving any such request from the Nigerian Government or having any hands in the capture and return of Mazi Nnamdi Kanu to Nigeria.

It was on the basis of the foregoing, as well as the fact that the extradition of Mazi Nnamdi Kanu did not follow the procedure laid down by our laws or the law of Kenya that the Court of Appeal in its judgment delivered on 13th October, condemned the procedure adopted by Nigeria in the extradition process. The court further held that Mazi Nnamdi Kanu's extradition from Kenya in June 2021 to Nigeria without following the extradition rules was a flagrant violation of Nigeria's extradition treaty and a breach of his fundamental human rights. The Court of Appeal then proceeded to strike out all the remaining seven counts out of the original 15 count charge.

It is submitted that in view of the expositions on the concept of extradition under the Nigerian law above, the Nigerian Government was in contravention of national and international laws in the process through which it secured the attendance of Mr Nnamdi Kanu to continue his trial. In the first instance, there are no assurances for fair trial and acceptable detention pending trial. What Nigeria did in Kanu's case was simply a case of abduction and kidnap in a foreign land which is classified as international terrorism.⁹⁴ What was carried out by the Nigerian government in Kanu's case is 'extraordinary rendition', which is in total violation of international law. It is also submitted that the adopted process also constitutes a violation of some of his fundamental rights especially the right to dignity, personal liberty and fair hearing.

5.0. Conclusion and Recommendations

This article articulated the key concept of extradition regulated under international law for the purposes of criminal litigations as opposed to extraordinary rendition.

In the end, it can be concluded that extradition is an act where one jurisdiction delivers a person accused or convicted of committing a crime in another jurisdiction, over to their law enforcement in accordance with municipal and international laws. It is a cooperative law enforcement process between the two jurisdictions and depends on the arrangements made between them. Through the extradition process, one sovereign jurisdiction typically makes a formal request to another sovereign jurisdiction (i.e. the requested state). If the fugitive is found within the territory of the requested state, then the requested state may arrest the fugitive and subject him or her to its extradition

⁹⁴ T. C. Eze, *op cit*, p. 50.

process. The extradition procedures to which the fugitive will be subjected are dependent on the law and practice of the requested state.

The work also examined the concept of extraordinary rendition as well as its implications *vis-a-vis* the rights of the victims of the process. It was established that extraordinary rendition is an extra-judicial practice which contravenes accepted international human rights standards and whereby an individual suspected of involvement in a crime or acts of terrorism is illegally abducted and transported to another country for interrogation which, in the majority of cases, involves incommunicado detention and torture.

There have been arguments in favour and against extraordinary rendition. While the critics of extraordinary rendition argue that it violates international law and human rights, as it often involves the transfer of individuals to countries where they may be subjected to torture or other forms of abuse; the supporters of the practice argue that it is necessary in the fight against terrorism and that it has yielded valuable intelligence information as well as helps in making suspected criminals as well as convicted felons undergo the processes of trial, conviction and punishment..

Despite the controversy surrounding extraordinary rendition, it is clear that the practice has been used by various countries, and it continues to be a topic of debate and discussion. It is important for governments to ensure that any use of rendition is conducted in accordance with international law and human rights standards, and that individuals are not subjected to torture and other forms of abuse.

Because extraordinary rendition frequently denies individuals access to recognized judicial procedures for extradition, as well as to legal recognition in the receiving country, it is submitted that it has serious negative implications for human rights of victims including the right to life, right to human dignity, right to personal liberty and the right to fair hearing.

The use of extraordinary rendition, when performed without the consent of the State to which the victim has absconded to, also undermines the principles of the rule of law and the sovereignty of nations. This is because it allows states to operate outside the boundaries of their own legal systems and those of other countries, which can lead to violations of human rights and other forms of abuse.

It is important to also note that the use of extraordinary rendition is illegal under international law, as it violates a number of fundamental human rights norms and

principles.⁹⁵ The United Nations has stated that the practice is incompatible with the prohibition against torture and other forms of cruel, inhuman, or degrading treatment or punishment, and with the right to a fair trial.⁹⁶

It is therefore submitted that while the pursuit of fugitive criminals is an important goal that all nation must collectively pursue, it should not be pursued at the expense of fundamental human rights and the rule of law; especially established international law principles. The use of extraordinary rendition undermines these principles and can lead to serious abuses of the rights of individuals suspected of having committed a crime or those who are involved in terrorism. The practical implications of extraordinary rendition include illegality, human rights abuses, lack of accountability and non-ethical or immoral inclinations. It is therefore submitted that the process should be avoided or abandoned in lieu of alternative methods of pursuing fugitive criminals.

The Nigerian Constitution, statutes⁹⁷ as well as other international instruments to which Nigeria is a party or domesticated⁹⁸ provide for the protection of fundamental human rights, including the right to liberty and freedom from arbitrary arrest and detention as well as fair hearing before a court or tribunal.

Therefore, any attempt by the Nigerian government to engage in extraordinary rendition, which involves the apprehension and detention of a person without due process, would be in violation of the Constitution, Nigerian statutes and those international instruments.

In view of the foregoing, this work offers the following recommendations:

1. It is recommended that there should be sanctions from the international community against any nations that engages in extraordinary rendition. In doing this, other states will be deterred from engaging in such.
2. The international Community should also sanction countries who unreasonably refuse to surrender fugitives upon deserving extradition requests or where the requesting country has met the conditions for the grant of an extradition request. This will obviate the need for extraordinary rendition

⁹⁵ R. J. Currie, 'Abducted Fugitives before the International Crime Court: Problems and Prospects' (2007) *Criminal LF*, Vol 18, No3, 349.

⁹⁶ A. Efrat & A. L. Newman, 'Defending Core Values: Human Rights and the Extradition of Fugitives' (2020) *Journal of Peace Research* Vol 5, No 4, pp 581-596.

⁹⁷ The Anti-Torture Act of 2017, the Administration of Criminal Justice Act of 2015.

⁹⁸ International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), African Charter on Human and People's Right, etc.

3. Extraordinary rendition should be seen as a jurisdictional matter that robs the court of its jurisdiction when it is raised. It is recommended that once the criminal trial commences after the fleeing fugitive has been brought back through extraordinary rendition, the court should decline jurisdiction to proceed with the matter. This recommendation is made in spite of the provision of section 14 of the Evidence Act that leaves the admissibility of illegally obtained evidence at the discretion of the court since the victims of extraordinary rendition are not evidence.
4. The Nigerian courts should be more inclined to enforce the rights of persons who have been subjected to extraordinary rendition when it is established that the rights of the fugitive has been breached. That way, persons may be able to be compensated for the breach of their fundamental rights during the extraordinary rendition process.