journals.unizik.edu.ng/index-php/jcpl
ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

Eviction Notice Orders in the Fight against Criminality in Nigeria: Unconstitutional

Uwakwe Fidelis C*

Abstract

Crime and criminality is an evil wind that blows no one good and it is abhorred globally. It is a global phenomenon and each country of the world approach the fight against the menace in different dimensions. Nigeria is not an exception to the fight against crime and criminality. Crime is a hydra-headed monster mendaciously lurking to devour Nigeria. The rise in crime in Nigeria dates back to 1970 after the Nigeria/Biafra civil war, when the first incident of robbery was experienced and it has since grown in geometric progression unabated. These rages from robbery, kidnapping, banditry, Fulani herders attack, rape, murder, militancy, Boko Haram activities etc. Commission of these crimes by criminals often results in the payment of ransom, rape and eventual death of innocent citizens of Nigeria. The government of Nigeria in the fight against the menace looks hopeless and helpless given room for all manner of illegal reactions from both State governments, group of persons and individuals alike with a view to curbing the menace. The most recent is the eviction order issued to Fulani herders in the western part of Nigeria, particularly, Ondo State by Ondo State Governor, Rotimi Akeredolu, SAN; and the attack on the herders by Sunday Igboho leaving debilitating effect on its wake. These eviction orders by the Governor ostensibly evoked mixed feelings and emotions from across the country. This paper examined the propriety or otherwise of the eviction order by the Ondo State Governor and proffers solution to curbing the incidences of these crimes in Nigeria, that has driven her citizens underground and forced innocent people to sleep with one eyes open.

Keywords: Eviction, Notice, Orders, Fight, Criminality, Nigeria, Unconstitutional

1. Introduction

Nigeria is said to be one indivisible and indissoluble sovereign nation. This is confirmed in section 2 of the Constitution of the Federal Republic of Nigeria 1999 (as amended),[1] which is the supreme law of the land. Nigeria consists of thirty six (36) States and the Federal Capital Territory, Abuja. It is also divided into six (6) geo-political zones: North South, North West, North East, South East, South West and South-South geo-political zones. The idea is to promote good governance and wellbeing of all persons in our country on the principles of freedom, equality, fairness and justice and for the purpose of fostering and consolidating the unity of the people of Nigeria.[2] The events of the recent past in Nigeria however, cast serious doubt to the oneness and unity of the people, the cardinal principle upon which Nigeria is supposedly built.

Nigeria is made up of more than two hundred and fifty (250) ethnic nationalities, with Hausa/ Fulani, Yoruba and Igbo as the dominant tribes in Nigeria. Unfortunately, no love appeared to be lost amongst the ethnic groups, rather these ethnic nationalities are divided along, ethnic, religious and political lines resulting in hatred, suspicion and fear of domination amongst themselves. The indices of division, hatred, fear, suspicion and marginalization glaringly manifested under the President Muhammadu Buhari's administration. Buhari considered appointment, the rise in crime and criminality with the government not putting enough effort in preventing it. The nefarious activities of Fulani herdsmen, Boko Haram menace, ugly perpetrated by the President's tribesmen heightened not only the fear of domination and marginalization of other tribes but also fear of systematic lslamisation of the entire country, Nigeria. The attitude of government whose main purpose is the maintenance of peace, security, welfare of the people and good governance brought youth restiveness calumniating to the emergency of the separatist Indigenous people of Biafran (IPO), group in the South-East and the militancy in the South-South geo-political zones, leaving the country more divided than ever before.

*__Uwakwe Fidelis C__, Lecturer, Chukwuemeka Odumegwu Ojukwu University, Igbariam Campus. Email: uwakwefideli@yahoo.com. Tel: 08033921593

[1] Section 2 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

[2] Ibid.

The climax is the recent quit notice ordered by the Ondo State Governor, Akeredolu, SAN against the Fulani herdsmen in the south west zone, particularly Ondo State. The eviction order by the Governor caused a lot of disguise as it evoked emotions from across the country. Example, Sunday Ademoye a.k.a, Sunday Igboho struck in Ibadan and attacked the Fulani community resulting in the razing down of properties and killing of innocent citizens of Nigeria.[3]

The Governor's eviction notice isreminiscent of the quit notice issued to the lgbos in the North in 1966 which caused the civil war fought between 1966-1970, that caused enormous casualties on both sides of the divide**.** And also the quit notice again issued to Igbos in the North by a group of persons called Coalition of Northern youths. It was the pressure by the Northern elders of the said group that doused the tension.[4]

For this country to remain one indivisible and indissoluble, this is not the way to go as this quit notice orders are illegal and unconstitutional. Evicting anybody or tribe from any part of the country is not the answer to solving crisis rather it aggravates the crisis which might lead the country to clash irredeemably.

2. The Propriety or Otherwise of the Governor's Quit Notice to Fulani Herders

The quit notice order issued to the Fulani herders by the Governor of Ondo State is offensive both to the provisions of the Constitution of Nigeria and statutes law. For example, section 41 (1) of the Constitution of the Republic of Nigeria, 1999 (as amended) States that:

> "*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 to or exit therefrom".*

In the enforcement of this provision of the Constitution, the court in the case of *Shugaba Abduirahman Darman v Federal Minister of Internal Affairs*,[5] held that a citizen of Nigeria cannot be deported from Nigeria contrary to the Constitution of Nigeria. Section 42 of the Nigerian Constitution, 1999 (as amended) is to the effect that every Nigerian must not be discriminated against on the basis of his being a member of a particular community, ethnic group, place of origin, sex, religion or political union.[6]Similarly, section 43 of the Constitution entitles every Nigerian with the right to acquire and own immovable property anywhere in Nigeria.[7] The combined effect of these sections of the Constitution which is the supreme law in Nigeria is that nobody or authority in Nigeria has the power to issue quit notice to any Nigerian resident in any part of Nigeria. It may however, be argued that the land in the bush, the herders occupy does not belong to them since they did not purchase same from the rightful owners. Issuing them quit notice is not the right way to go. They could be made to purchase the land they occupy and not to quit them, as doing so ran contrary to the provisions of the Constitution. Quit notice is a civil process in the Landlord/Tenant relationship which entitles the Landlord to recover any property from the tenant at anytime, after complying with the procedure as stated in the relevant law. The Land Use Act, 1978, however, vests all land in the territory of each State in the Federation in the Governor of that State. The Act made it clear that the said provision of the law does not bestow on the Governor, the ownership of the land but establishes a trusteeship in which the Governor is simply holding the land in trust for all Nigerians residing in that State. This empowers the Governor to effectively administer the land for the benefit of all Nigerians. Section 1 of the Act states that:

> "*All land comprised in the territory of each State in the Federation are hereby vested in the Governor of that state and such land shall be held in trust and administered for the use and common benefit of all Nigerians".*

[3] K Okonkwo, 'Quit Notice and Citizenship in Nigeria', Daily Sun News Paper, 31st January, 2021, p 31.
[4] Ibid.
[5] (1982)3 NCLR p. 915
[6] Section 42 of the Nigerian Constitution, 1999(as amended)
[7] Section 43, Ibid.

Thus, no land in any State is reserved exclusively for the ancestral indigenes, it is reserved for all Nigerians. So the concept of indigenes settlers is absolutely unnecessary, unconstitutional with regard to the ownership residence on land in Nigeria. If one can afford to purchase and own any immovable property such as land in any part of the country, nobody or authority can quit him or her from there. Even if the person commits crime, the right thing to do is to arrest, prosecute and upon conviction, send him to prison, and not to expel him from where he is living as doing so is offensive to the extant law of the country. The proviso to section 41 of the Constitution is with respect to the commission of a crime. It provides:

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

No provision for quit notice in the land use Act, 1978, other than revocation. This empowers a State Governor to acquire any land within his domain from the owner for use for public purpose or interest or revoke ownership where the owner has or is defaulting on the terms of the Certificate of Occupancy (C of O). Example, a land is designated for residence and it is converted to Filling/Gas Station by the owner, it can be revoked by the Governor because the existence of a Filling Station or Gas Station within a residential area poses a risk to the lives of the residents as the possibility of the explosion will be high.

Where, however, the revocation is for public interest, the Governor is bound to pay adequate compensation. Where however, the State builds and rents out State properties to tenants, the State has the power to issue quit notice to its tenants in a civil process.[8] It is pertinent to state that the issue of quit notice to Igbos in 1966 was the actual cause of the civil war fought between 1966-1970.[9] Sequel to political crisis in the Western Region of Nigeria and the coup that followed, believed to have been carried out by lgbo Army Officers resulting to counter coup targeted against the Igbos, the Northerners issued a quit notice to the Igbos and backed it up with the pogrom and the killing of the Igbos in the North. On rushing back to Igboland, Ndi Igbo declared Biafra which led to the civil war that claimed many lives on both sides of the divide. No country of the world survives war twice. Nigerian leaders should tread softly to avoid another war in Nigeria. If Nigeria will continue to be one country evicting anybody or tribe from any part of Nigeria will not proffer solution to any crisis but aggravate same to the detriment of our dear country, Nigeria.

The Northern elders mindful of this situation rose in defence of one Nigeria when quit notice issued to Igbos in the North by a group called the Coalition of Northern Youths. It was the pressure mounted on the group by the Northern elders that made them to rescind the so called quit notice.[10] The caution of the Northern elders on this issue improved the unity and relationship between the North and Ndi Igbo.

The event in Ondo State, where the Governor of the State, Rotimi Akeredolu, SAN, was said to have issued quit notice to Fulani herders is worrisome. Concerted efforts must be made to douse the tension before it escalates and cause harm to the unity of Nigeria.

3. Rule of Law in Nigeria's Governance

In any democratic society such as Nigeria, the cardinal principle and pillar of governance is the rule of law. It is, according to Black's Law dictionary definition, "the restriction of the arbitrary exercise of power by subordinating into well-defined and established laws".[11] Wikipedia highlighted the principles that underline the rule of law, to wit:

> *Adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in*

[8] K Okonkwo (n 3).
[9] Ibid.
[10] Ibid.
[11] B A Garner, Black's Law Dictionary

> *decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency*.

This means that the law is supreme, no matter who is involved. When the rule of law is subsumed in any society, it is a foundation for anarchy, wherein mayhem, rebellion, mob rule, turmoil and disorder prevail. It is a situation which any country would not wish for because, in the circumstance, might becomes right and the strong oppresses the weak. Nigerian leaders have penchant for disobedience to rule of law. Rule of law is an essential pillar of democracy. It is very important in the preservation of any given democratic institution globally. In *AG of Bendel State v Aideyan*,[12] Per Nnaemeka Agu JSC:

> *Our founding fathers and our power to be had opted for the Rule of Law in preference to the rule of force and absolute totalitarianism. Under the system we have elected that the otherwise omnipotent power of government must be exercised under the authority of the law, any actof government which is not covered on the umbrella of the enabling law is a nullity.*

Leaders should lead by example. This is not the case with Nigerian leaders who see themselves over and above others and prefer not only to be worshiped but lead with impurity. When Olusegun Obansanjo was the president of Nigeria, between 1999-2007, he had no regard for rule of law. He unilaterally sacked his vice, Alhaji Atiku Abubakar as Nigeria's vice – president. Based on the unlawful removal of Atiku as the vice-president by the former president, Olusegun Obasanjo, Atiku went to court to ventilate his grievances in *Atiku Abubakar v Attorney General of the Federation.*[13] The Supreme Court wasted no time in voiding the order of the former President Olusegun Obansanjo. The Apex court in condemning the sacking of Atiku unilatelly by Obansanjo held thus:

> *That the office of the vice president being a creation of the Constitution', the holder of the office can only be removed in accordance with the Constitution and not according to the whims or behest of a single individual, no matter how highly placed.*

Similarly, the same scenario planned out in the case of *Attorney General of Lagos State v Attorney General of Federation,*[14] (known as the statutory allocation case), wherein the former president, Obansanjo again despite all known principles of law withheld Lagos State Local Government Fund. Irked by the action of the then President, Obasanjo, Lagos State government took action against the Federal government under the watch of Obasanjo over the vexed issue. The Supreme Court found in favour of the Lagos State Government and ordered the President to release the fund having no power to withhold it.

Nigeria is yet to practice true constitutional democracy. Rule of law currently is on its knees in the country. Rule of law includes the respect by the Executive not only by due process of the law but also of the order of the court of law properly constituted to exercise jurisdiction.[15] One of the biggest challenges the country is facing under the present political dispensation is disobedience to court orders and judgment. For instance, sowore, a human right activist was arrested and detained for allegedly calling for Revolution; he approached the court to enforce his fundamental human rights. The court granted the orders. Federal Government refused to obey the orders of the court. In fact, right inside the court room, attempts were made by the overzealous police officers to arrest him, an action viewed as a desecration of the temple of justice.[16] Similarly, El Zakhi–Zakhi, the lslamic cleric remain in detention despite various orders by the courts to release him.[17] The same applied to the case of Dasuki. The government spurned various orders of the court to release him.[18] Rule of law is in a commatose under Mohammadu Buhari's

[12] (1989) 9 SCNJ 80.
[13] (2007) 3 NWLR (pt. 1022) p. 601
[14] (2002) 6 NWLR (pt. 674) p. 755
[15] *Ojukwu v Military Governor Lagos State* (1986) 1 NWLR p. 621
[16] 'Disobedient to Court Order', <https://www.ThidayLive.com/mdet.php /2007/02/28 disobedience to court- orders/amp> accessed 25 June 2024.
[17] Ibid.
[18] Ibid.

administration. In Nigeria today, live has nosedived back into the "hubbisian era when live was nasty, brutish and short."Survival of the fittest is now the order of the day. Hardly had a day passed without hearing an incidence of loss of lives and properties, either through the heinous activities of Boko Haram, Fulani Herders, Bandits, Kidnapping, Robbery or the Separatist Movement, otherwise known as IPOB ie Indigenous people of Biafra led by Mazi Nnamadi Kalu, and his Eastern Security Network, Oduduwa Republic agitators and the activist of Yoruba group led by Sunday Igboho and his Amotekun. Nigeria is a lawless country. Both the Governors and the Governed breach the law with impurity. The Constitution of the Federal Republic of Nigeria, 1999 (as amended) is the supreme law of the land[19] and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.[20] Section 1(3) of the Constitution states that, if any law is inconsistence with the provisions of the Constitution, the Constitution shall prevail, and that other law shall to the extent of its inconsistence be void.

The leadership of this country Nigeria, the President and his Vice, the Governors of each State of the Federation and their deputies swore to uphold and maintain the Constitution of Nigeria but the reverse is the case. Government at all levels in Nigeria has failed in their duties. Government is bound by the law which itself has made. In *Eleso v Government of Ogun State & ors*,[21] it was held per Eso JSC of the blessed memory:

> *That in the exercise of power as a matter of order, peace and good governance, a Governor must have a cause to law, the Governor is not certainly there to seize the power of other functionaries nor is he there to rule in dictatorship in disregard of established laws of the land. That will not bring order or peace or good Governance.*

Nigeria as stated earlier is a constitutional democracy, but our democracy as it is today being practiced is just an improved version of authoritarianism because our political leaders are still acting like emperors over a conquered people. The views of Nigerians no longer count. The National Assembly is helpless because of the over bearing and domineering influence of the executive arm of government. What is more worrisome, is the current knack of the Government under Buhari to issue Executive Orders. Such orders are alien to our constitutional democracy. There is nothing in those Executive Orders that our extant laws have not provided for. Such orders smacks of dictatorship. The orders are unconstitutional and have no place in our democratic setting. The Governors are now following the footstep of the President. This is lawless and completely unacceptable as it has no place in our legal system. Latching on this lawlessness of churning Executive Orders, the Governor of Ondo State, Akeredolu, SAN issued an Order ordering the Fulani herders to vacate Ondo forest which caused a lot of disquiet in the polity, which should not be.

4. The Constitutionality or Otherwise of the Governor's Eviction Order

Executive Orders are not known to Nigerian legal system and therefore has no legal backing. In *Attorney General Bendel State v Aideyan*,[22] it was held per Nnaemeka Agu JSC:

> *That our founding fathers and our power to be had opted for the rule of law in preference to the rule of force and absolute totalitarianism. Under the system we have elected that the otherwise omnipotent power of government must be exercised under the authority of the law. Any act of government which is not carried under the umbrella of the enabling law is a nullity. It is the constitutional rights of every Nigerian to reside in any part of Nigeria of his choice without inhibition or let.*[23]

[19] Section 1 of the Nigerian Constitution, 1999.
[20] Ibid
[21] (1990) JELR 44619
[22] (1989) 9 SCNJ P 80
[23] Section 41 of the Nigerian Constitution, 1999(as amended)

Section 41 of the Nigerian Constitution 1999 (as amended) states:

> *Every citizen of Nigeria is free to move freely throughout in Nigeria and reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry or exit therefrom*.[24]

Section 42 is to the effect that every Nigerian must not be discriminated against on the basis of his being a member of a particular community, ethnic group, place of origin, sex, religion or political opinion. [25] Section 43 entitles every Nigerian with the right to acquire and own immovable property anywhere in Nigeria.[26]

The combined reading of the above sections of the Constitution reveals that no body or authority has the power to eject any Nigerian residing anywhere in Nigeria. Where then lays the authority of the Governor to issue quit notice to Fulani herdsmen in Ondo forest? His is a case of blatant abuse of power which must not be allowed to stand as doing otherwise would create dangerous precedent the effect of which will not auger well to Nigerian people.

Similarly, if the Governor's action is viewed on the angle of the land use Act, of 1978, the Governor still lacks the power to unilaterally eject the herders in Ondo State forest without more. The Land Use Act, 1978 merely vests all land comprised in the territory of each State of the Federation in the Governor of that State. The Act expressly made it clear that this does not bestow on the Governor the ownership of the land but establishes a trusteeship in which the Governor is simply holding the land in trust for all Nigerians residing in the State. It enables the Governor to efficiently administer the land for the benefit of all Nigerians. Section 1 of the Act states that:

> *All land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians*.

Thus, no land in any State is exclusively reserved only for the ancestral indigenes irrespective of his/her ethnic, creed or religious inclination. So the concept of indigenes or non-indigenes is totally unconstitutional with regard to the ownership and residence on land in Nigeria.

If anybody "Nigerian" can afford to purchase and own any immovable property in any part of Nigeria, no authority can quite him therefrom. Even if he commits crime, the Constitutional provision is that he should be arrested, prosecuted and punished if convicted by a court of competent jurisdiction, and not to be ejected from where he resides. However, Section 41 (2) of the constitution states that:

> *Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society—(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 for a criminal offence, or(ii) undergo imprisonment for a criminal offence under the law of that other country*.

Moreover, there is absolutely no provision in the land Use Act, for quit notice. The Act however, provides for revocation. This empowers a Governor to acquire any land from the owner for public interest or revoke ownership where the owner has or is defaulting on the terms of the Certificate of Occupancy. Example, a land that is designed for residence in a densely populated area but of which was converted to a filling station by the owner can be revoked by the Governor because the existence of filling station within residential area poses great danger to the lives of the residents as the possibility of fire out break or explosion will be high. Again, where a renovation is for public interest, the Governor is bound to pay

[24] Ibid.
[25] Ibid, section 42.
[26] Ibid.

adequate compensation. However, if State builds and rents out State properties to tenants, the State has the power to issue quit notice to its tenants in a civil process. Quite notice is a civil process in the Landlord/Tenant relationship, which entitles the Landlord to recover his property from the tenant at any time, after complying with the procedure as stated in the law. Anything short of this would amount to resort to self help and should be discouraged if Nigerian unity is anything to go by.

5. Effect of Quit Notice by One Ethnic Nationality to Another in Nigeria

Nigeria is a country of more than two hundred and fifty ethnic nationalities. The fear of domination by one tribe to another made each tribe suspect to one another thereby causing disunity in Nigeria. The issue of quit notice to lgbo tribe in 1966 from the North was the actual cause of the civil war fought between 1967-1970. Following the intractable political crisis in the West and the resultant coup, believed to have been carried out by lgbo army officers, which precipitated the counter coup, targeted against the lgbos and backed it up with the pogrom and killing of lgbos in the North. Ndigbo on rushing back to lgbo land, declared Biafra which led to the civil war that caused heavy casualties on both sides of the divide. Most countries do not survive a civil war twice. The Northern elders knew that if they want Nigeria to continue to be one country, evicting anybody or tribe from their territory will not proffer solution to any crisis. They rose to the occasion in the quit notice issued to lgbo tribe by the Coalition of Northern youths. It was the pressure put on these youths by the Northern elders that made them rescind the quit notice.[27] The Northern elder's conduct in this regard is commendable and should be encouraged. Their action no doubt improved the unity between the North and Ndigbo.

Our leaders should lead by example. The soothing words of late Emir of Kano, Alhaji Ado Bayero and his successor, the deposed Emir Muhammed Sanusi ll to lgbos in Kano is worthy of emulation. Emir Ado Bayero visited Igbo community when he was alive and declared, "You are no longer the lgbo in Kano, you are the lgbos of Kano". By implication, he was saying that any Nigeria residing in Kano enjoys equal rights with every other indigene. Towing the same line, his successor, Emir Sanusi ll during the 10 th Anniversary/Ofala, 2019 festival of Eze Ndigbo Kano, His Royal Highness, Chief (Dr.) Boniface Ibekwe, held at Ado Bayero square, Sabon Gari Kano, declared that "there is nothing like non-indigeneship in Kano," insisting that everybody residing in the State is a bonafide indigene irrespective of his ethnic, cultural and religious background". He further said, "for us in Kano, whether you are Nupe, Yoruba, Igbo, Kanuri, Muslim, Christian, if you identify yourself as a son of Kano, you are from Kano. Many of you here today were born in Kano, your parents were also born here in Kano. So, who can come and tell you that you are not an indigene? We are all one and we should live together as brothers and sisters". What these Emirs of Kano stated is the express provision of the constitutional right of Nigerians and their statements reflect their avowed commitment to defend the rights of all Nigerians within their domain.[28]

Conversely, the quit notice by by Ondo Governor to Fulani herdsmen to vacate Ondo forest caused a lot of disquiet in the polity. Other Ondo leaders including the traditional rulers also pledged to help in the fight against the herders. To state the obvious, the eviction notice from the Governor to the herders evoked emotions from across the country. Shortly after, Sunday Adeyemo a.k.a Sunday lgboho struck in lbadan and attacked the Fulani community resulting in the razing down of properties and killing of some citizens. To dounce the dust raised by that action, a meeting was immediately arranged between the South-West Governors and Miyety Allah Cattle Breeders Association of Nigeria. The meeting yielded fruits as the Governors clarified the order of the Governor of Ondo State to mean that whoever that is inhabiting the forest reserves illegally should quit. The latest statement of Ondo

State Governor on this issue is an afterthought aimed at assuaging the feelings of the herders. Though, a lot of damage has already been done to both lives and properties. The clarification by the Governor is soothing to the aggrieved herders. There is therefore need to avoid inflammatory/derogatory words in the fight against crime and criminality in Nigeria. Nigerians should choose the words they use. Inflammatory/ derogatory words or hate speech should be avoided as much as possible as on guarded words could heat

[27] K Okonkwo (n 3)
[28] Ibid.

up the policy and possibly ignite crisis in the country. The use of the phrase "Fulani Herdsmen" is the major problem in the fight against criminality in Nigeria. It is not an offence to be Fulani or to be herdsmen; Fulani is a tribe like other tribes that made up Nigeria. Whereas, herdsmen are a profession like other professions. Some Fulani herders are genuine and the fact that some of them are criminals does not make all of them guilty. There are lgbo traders, Yoruba journalists, Tiv Farmers etc. These are equivalent to the phrases to Fulani herdsmen, if some of them are criminals it does not mean that all of them are criminals, and be treated as such. Those using these words are wittingly and unwittingly criminalizing ethnicity, religion and professions which should not be. If the Governor had issued quit notice to the herders who are criminals causing mayhem and creating havoc in the society to exit the forest or risk arrest and prosecution. It would have attracted sympathy of everyone in the fight including the Fulani who have suffered and still suffering from the activities of terrorist, insurgents, bandits, robbers, kidnappers, rapists etc.

6. The Supremacy of the Nigerian Constitution

Supremacy of the Constitution relates to the power of the Constitution not only to control its amendment but also the determination of all other processes that take place in the other arms of government. The supremacy of the Constitution could also be referred to as constitutional sovereignty. In Nigeria, the people are sovereign hence; sovereignty resides in the people, for the Constitution provides, that sovereignty belongs to the people of Nigeria from whom government, through this Constitution, derives all its power and authority.[29] The people exercise sovereignty through electoral process by which they vote for the candidates of their choice to put in place a democratic government in accordance with the Constitution which is the express will of the people, for regulation of government and national life.[30]Nevertheless, the Constitution of the Federal Republic of Nigeria is not only the organic law and fundamental law of the country, but also the supreme law of the land which has binding force on all persons, bodies, agencies and institutions in the country. The 1999 Constitution clearly spelt out these provisions thus:

> *This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. The Federal Republic of Nigeria shall not be governed nor shall any person or group of persons take control of government of Nigeria or any part thereof, except in accordance with the provision of this Constitution. If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency be void*.[31]

The courts in Nigeria have at every opportunity stated very clearly and eloquently this classic position of the Nigerian Constitution. For example, the Supreme Court in the case of the *Attorney General of Abia State & 35 Ors. v Attorney General of the Federation*, [32]nullified some sections of the Electoral Act 2001, on the ground that such provisions were ultra vires the powers of the National Assembly and held, that by virtue of section 1 (1) of the 1999 Constitution, the provisions of the Constitution are superior to every provision made in any Act or law and are binding on and must be observed and respected by all persons and authorities in Nigeria… The Constitution is the grundnorm and the fundamental law of the land.[33] Similarly, in *Fasakin Food (Nig) v Shosanya*,[34] the court stated that "the Constitution is supreme, it is the organic and fundamental law and it is the grundnorm of Nigeria. The Constitution is the fons et origo and the foundation of all laws."

[29] Section 14(2) of the Constitution of the Federal Republic of Nigeria, 1999(as amended)
[30] Ibid.
[31] CFRN, section 1 (1).
[32] (2002) 6 NWLR (Pt. 764) 542.
[33] Ibid.
[34] (2006) 10 NWLR (pt. 787) p.148

The same decision was reached in *INEC v Musa*[35] wherein, it was held that, where the Constitution sets the condition for doing a thing, no legislation of the National Assembly or of a Sate House of Assembly can alter those conditions in any way directly or indirectly unless the Constitution itself as an attribute of its supremacy expressly stated so. The court further stated that the Constitution is supreme and the validity of any provision will be tested by the following interrelated provisions, that is:

a. All powers of the legislative, Executive and judiciary must ultimately be traced to the Constitution.
b. The Legislative power of the Legislature cannot be exercised inconsistently with the Constitution, where it is so exercised it is invalid to the extent of such inconsistency.
c. Where the Constitution has enacted exhaustively in respect of any situation, conduct or subject, a body that claims to legislate in addition to what the Constitution has enacted must show that it has derived the legislative authority to do so from the Constitution.[36]

The Supreme Court also, on supremacy of the Constitution, held in the case of *Gani Fawehini v Babangida,*[37] that it is the limits set under relevant provisions of the Constitution that define and determine the frontiers of the law that can be enacted. Thus, no law not specifically authorized or backed up in the Constitution can be lawfully passed for the Federation of Nigeria. That is the hallmark of constitutional democratic government. Thus, where lays the power of Ondo State Governor Rotimi Akeredolu to have issued quit notice to Fulani herders to vacate Ondo forest. Neither the Constitution of Nigeria nor any statue empowered the Governor to do what he did. Therefore, the quit notice order to Fulani herders by the said Governor is not supported by any Nigerian law and cannot hold water. Citing insecurity as his reason for the action he took is not enough to contravene the Constitution, which is the supreme law of the land.

7. Conclusion

Nigeria operates a constitutional democracy and what this means is that, a person, group or body that wants to do an act in addition to what the Constitution as enacted must show that it has derived the authority to do so from the Constitution. The experience of democracies world over, reveal that the conflict between the three arms of government is inevitable. But the public or national interest of the electorate must be uppermost in the mind of the legislators and executive officials. Nigeria operates constitutional democracy and what this means is that, a person, group or body that wants to do an act in addition to what the Constitution has enacted must show that it has deprived the legislative authority to do so from the Constitution, which the Governor of Ondo State failed to do when he purportedly issued an order evicting Fulani herders in Ondo State.

The Constitution of the Federal Republic of Nigeria is the organic law of the land, [38]The Constitution is supreme and it is the foundation of all laws. It is the bedrock of the rule of law and the three organs of government in Nigeria derived its powers from the Constitution. The Supreme Court of Nigeria re-affirmed the superior status of the Constitution in *Attorney General of Abia State v Attorney General of the Federation* thus:

The Constitution is the grundnorm and the fundamental law of the land. All other legislations take their hierarchy from the provisions of the Constitution. The provisions of the Constitution take precedence over any law enacted by the National Assembly even though the National Assembly has the power to amend the Constitution, the law made by the National Assembly comes next to the Constitution, followed by those made by the House of Assembly.[39]

[35] (2003) 10 WRN p1 at 40 - 41
[36] Ibid
[37] (2003) 3NWLR (pt.808) 651.
[38] Section 1 (3) of the Nigerian Constitution, 1999
[39] Ibid

The concept of supremacy of the Constitution connotes that any law, policy, initiative and procedure that is contrary to the provisions of the Constitution shall be declared null and void, (section1(3) of the 1999 Constitution). For all intents and purposes the order of the Governor contravenes the provisions of the Constitution and ought not to stand.

8. Recommendations

The actions of some State Governors with the tacit connivance of some powerful civilians are a rape on, and also an attempt to strangle democracy and the rule of law or, render it ineffective. Nigerian politicians and the officials should demonstrate to all that they are capable of delivering to the people and upholding the laws as they expect of the ordinary citizens. There is the need for the Governors to reassure the people that they are fully aware of, and are ready to uphold, the rules of democratic engagement.

No matter how repugnant the actions of the Governors and their Deputies, including other elected officials may be, we must, as civilized people, allow the law to take its due course. The electorate on the other hand, must rise up to the occasion and take back their country. They must hold their elected officials accounted persons, and not those bereft of constructive ideas, are elected into office.

Conversely, those who fail to perform must be promptly voted out. The people deserve the leaders they choose; therefore, the electorate must reevaluate their criteria for electing people into office. One of the consequences that flow from the peoples inaction is their continued endurance of various social maladies, political malaise, inequities and injustices, economic deprivation amidst plenty, and most of all, international scorn. The ballot is the only effective weapon available to the people, and they must use it wisely for the future is in their hands. This will reduce conflict amongst the three tiers of government, guarantee peace, security, progress, development and good governance. No nation can make headway if its rulers are not committed to transparently upholding the rule of law, and also subjecting themselves to the law of the land.