

AN ANALYSIS ON THE POWERS OF THE PUBLIC COMPLAINT COMMISSION IN THE PROTECTION OF CITIZENS' RIGHTS IN NIGERIA

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Abstract

The Public Complaints Commission (PCC) came into existence as a result of the Public Complaints Commission Act of 2004. The purpose of the act is to establish the Public Complaints Commission with wide powers to inquire into complaints by members of the public concerning the administrative action of any public authority and companies or their officials, and other matters ancillary thereto. Searching through the literature, it was discovered that there is extreme scarcity of knowledge on how the powers given to the PCC have helped protect the rights of Nigerian citizens. Hence, to fill this knowledge gap, this study assessed whether the powers given to the PCC as a result of the Public Complaints Commission Act of 2004 have actually helped in protecting the rights of Nigerian citizens. The study found out that the PCC have helped somewhat in protecting the rights of citizens in Nigeria. However, some improvements are needed to be made by the PCC to help increase the protection citizens get in Nigeria. This study recommends that the Public Complaints Commission Act of 2004 be revised, so that the current weaknesses of the Act can be improved upon, as this will help the PCC achieve the major reasons why it was established in 2004.

Keywords: Public complaints commission, citizen's right, Nigeria

1.1 Introduction

The rights of citizens of Nigerians have consistently been violated. Public officials are mostly the offenders in this regard. For example, the police regularly commit human rights violations; include unlawful killings, torture and other ill-treatment, and enforced disappearances¹. Similarly, the police have widespread and pronounced disregard for human rights, as citizens are unlawfully killed and the killers in most cases go scot free. The justice system also is under-resourced and riddled with delays². Individuals that are being detained by the police force are made to stay detained beyond the constitutionally guaranteed 48 hours. This is why it is said that many Nigerian citizens especially civilians and the poor have gone into despair for most of the citizens' rights exist only on paper and are not realistic³. All these have led to a sustained struggle for the protection of the human rights of individuals, groups and communities in Nigeria⁴.

Pollution and environmental damage caused by the oil industry have a serious impact on people living in the Niger Delta and laws and regulations to protect the environment are poorly enforced⁵. To add, human rights activists and journalists face intimidation and harassment always. This is because human rights defenders and journalists are threatened and beaten by police and security forces, and several have been killed in suspicious circumstances⁶. These things happens not because there are no policies to protect the public, but because there is a wide gulf between official pronouncements of respect for human rights and their actual implementation⁷.

A lot of efforts have been put in place to criminalizing torture, ending human rights violations by the security forces, strengthening accountability mechanisms, addressing communal violence, the status of economic, social and cultural rights implementation, and improving women's rights⁸. However, as earlier mentioned, human rights in Nigeria is still largely violated and abused on daily basis.

¹<https://www.amnestyusa.org/countries/nigeria/> [Accessed on 14/10/19].

² Ibid

³ Mohammed, S. I., Nazariah, O., & Muhammad, F. O. (2016). Nigerian Citizens and Fundamental Rights: Myth, Manoeuvre and Reality. *Journal of International Studies*, 12, 53-64.

⁴ Okogbule, N. (2005). Access to Justice and Human Rights Protection in Nigeria. *International Journal on Human Rights*, 1-6. Retrieved from <https://sur.conectas.org/en/access-justice-human-rights-protection-nigeria/>

⁵ Ibid

⁶ Ibid

⁷ Ibid

⁸ Amnesty International (2018). Nigeria: Still no accountability for human rights violations. Retrieved from <https://reliefweb.int/report/nigeria/nigeria-still-no-accountability-human-rights-violations/> [Accessed on 14/09].

In response to this, the Nigerian government created the Public Complaints Commission (PCC) through an Act in 1975. The PCC was established by the federal government to entertain from citizens, complaints of injustice, corruption, unfair treatment, and abuse of office by public officers⁹. This means the PCC are obliged entertain grievances and complaints of citizens against public servants; investigate cases of corruption, bribery and nepotism or favoritism against public servants. This study therefore assessed how the powers of the public complaint commission have helped in the protection of citizens' rights in Nigeria. This kind of study is long overdue, because there is still dearth of knowledge in the literature on how the PCC have been useful in protecting the rights of citizens of Nigeria.

This study is divided into four sections. The first part of the study focus on the PCC by giving extensive functions and objectives of the PCC. The second part centres on human right in Nigeria and how the rights of Nigerians have been constantly violated. The third part explains how the powers of the PCC have helped in protecting the rights of Nigerians. The final part concludes the study and recommendations were made.

1.2 The Public Complaints Commission (PCC)

The Public Complaints Commission is better known all over the world as the Ombudsman. Ombudsman is a political device for the protection of the citizen from the arbitrary, repressive and oppressive application of the executive powers of government¹⁰. The Ombudsman is known and performed by various agencies all over the world¹¹. In United Kingdom they are known as "Parliamentary Commissioner for Administration (PCA). The Ombudsman in U.K is attached to the Parliament while there are also various other Ombudsman services in the United Kingdom, which are specific for each industry or areas of influence¹².

In Nigeria, prior to the report of the Public Service Review which was set up by the federal military government to look into the conditions of service of public

⁹IkenwaChizoba (2019). Public Complaints Commission (Ombudsman): Definitions and Functions. <https://nigerianinfopedia.com.ng/public-complaints-commission-ombudsman-definition-functions/> [Accessed on 14/10/19].

¹⁰Ebiziem, J. E., &Amadi, C. J. (2015). Appraisal of Ombudsman in Nigeria;Operations, benefits and challenges. *International Journal of Advanced Academic Research*, 1(2), 59-72.

¹¹Osegbue, C., &Madubueze, M. (2017). The Ombudsman and Administration of Justice in Nigeria; A Study of Anambra State; 2010-2015. *Journal of Humanities and Social Science*, 4(5), 40-57.

¹² Ibid n (11)

workers in the federation¹³, there were recommendations for the institution of a public Ombudsman in Nigeria. Upon the assumption of office the military head of state in 1975 constituted a team (Udoji public service Review commission of 1974) to study the institution of Ombudsman in other countries with a view to setting up a peculiar Ombudsman system in Nigeria. As a result of the recommendation of the Udoji public service Review commission of 1974, the General Murtala Mohammed Administration established the public complaints commission in 1975 under Decree 31 of 1975. It was later amended by Decree 21 of 1979 and now incorporated into the laws of the Federal Republic of Nigeria as public complaints Act Cap 377. The Public Complaints Commission (PCC) which is Nigeria's Ombudsman institution has been incorporated into the Laws of the Federation of Nigeria (LFN) as the Public Complaints Commission Act, CAP. P.37, LFN, 2004. The Public Complaints Commission Act is, also entrenched under Section 315; Sub-section 5(b) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)¹⁴. The Commission consists of a Chief Commissioner and Twelve other Commissioners appointed by the Supreme Military Council, and also responsible to the council. The Commission has power to initiate investigation on its own or upon complaint on administrative action by federal or state agencies, statutory corporations, local government authorities and public institutions and companies whether in the public or private sector and officials therefore.

In Nigeria, the ombudsman is known as the Public Complaints Commission, the machinery for the control of administrative excesses or injustices at Federal, State and Local Government levels¹⁵. This means it is an organ of the government set up to redress complaints lodged by aggrieved citizens or residents in Nigeria against administrative injustice¹⁶. Therefore, the PCC looks into complains of the citizens of the country about the actions of their superiors or government about any matter¹⁷.

The PCC was set up with major objectives. Major objectives of the public Complaints Commission include: training and promotion of public servants; settlement of disputes among individuals; addressing the grievances of individuals and groups and fighting corruption and indiscipline¹⁸. Other objectives of the PCC

¹³Udoji, Jerome. (1974). Federal Republic of Nigeria Public Service Commission Main Report, Lagos:Government Printer.

¹⁴Egede, S. (2019). Promoting Social Justice through Public Complaints Commission. Retrieved from <https://thepointernewsline.com/?p=16665/> [Accessed on 14/10/19].

¹⁵Public Complaints Commission. Retrieved from <http://www.commonwealthgovernance.org/partners/public-complaints-commission/> [Accessed on 14/10/19].

¹⁶ Ibid

¹⁷<https://hotels.ng/places/government-building/4664-public-complaints-commission/> [Accessed on 14/10/19].

¹⁸<https://myschool.ng/classroom/government/27215?qtid=814009/> [Accessed on 14/10/19].

is to provide social justice for the individual citizen or resident in Nigeria without which, there can hardly be genuine peace and stability¹⁹. The Commission was, also, established to address and redress complaints of or observed cases of social and administrative injustices arising from bureaucratic errors, omissions or abuses by officials of government or limited liability companies in Nigeria²⁰.

In summary, the commission is empowered to: investigate cases of incompetence, use of false documents and inconsistency in the application of civil service rules by civil servants; investigate loss of documents and vital papers in the civil service and government owned corporations; see to the arrest and prosecution of public officers who infringe upon the laws of the country; suggest some changes in the laws of the country, so as to improve the efficiency of the public service; and help redress the abuses suffered by citizens in the hands of public services²¹.

1.2.1 Structure of the Commission

The commission places high priority on being accessible to the citizens. Because of this, it has offices in the 36 states of the Federation and F.C.T. as well as five zonal offices in each state²². This is because; it is the policy of the Commission to establish its presence in all the Local Government Areas (LGAs) in Nigeria. This facilitates the ease with which complaints reach the Commission. It also reduces transport costs and risk citizens are exposed to in the course of lodging their complaints²³. According to the Public Complaints Commission Acts of 1975, section one sub section 1, the commission is headed by a commissioner and such number of other commissioners as approved by the National Assembly from time to time²⁴. The chief commissioner of the commission is allowed by the Act to hold office for a term of three years in the first instance and may be eligible for re-appointment for a second term of three years²⁵. However, a commissioner cannot stay beyond six years in office. A commissioner can also be removed from office at any point in time by the National Assembly.

A commissioner by the virtue of the Public Complaints Commission Act is given some powers. For example, in Section 9 sub Section 1, a commissioner have the powers to summon in writing any person who in the opinion of the commissioner

¹⁹ Ibid

²⁰ Ibid n (15)

²¹ Ibid n (10)

²² <http://www.commonwealthgovernance.org/partners/public-complaints-commission/> [Accessed on 14/10/19].

²³ Ibid n (23)

²⁴ Public Complaints Commission Act. Retrieved from <https://lawyersonline.ng/1fn/1fn/public-complaints-commission-act/> [Accessed on 14/10/19].

²⁵ Ibid n (23)

is in the position to testify on any matter before him, to give evidence in the matter and any person who fails to appear when required to do so is guilty of an offence under the Act. According to the Act, any persons guilty of an offence under section 9 of the Act is liable to pay a fine of 500 Naira or imprisonment for a term of six months or to both such fine and imprisonment²⁶.

A commissioner also enjoys immunity from legal processes. According to Section 10, sub Section 1 and 2, no commissioner is liable to be sued in any court of law for any act done or omitted in the due exercise of his duties. Sub section 2 of section 10 the Act specifically states that any report, statement or other communication or record of any meeting, investigation or proceedings which a commissioner, officer or servant of the commission may make in the due exercise of his functions, is privileged in that its production may not be compelled in any legal proceedings if the Attorney-General of the Federation certifies that such production is not in the public interest²⁷.

1.3 The Rights of Nigerian Citizens

The Nigerian citizen according to the constitution has the rights to some essential things of life. This actually means that as a Nigerian citizen, one is automatically entitled to some fundamental rights. Every Nigerian has a right to life. This therefore means that every Nigerian citizen has a right to life and no one should be deprived intentionally of his life. This is contained in Section 33 of the 1999 constitution²⁸. However, there are exceptions to this right, and they are: if a citizen dies as a result of the use of reasonable force for the defence of any person from unlawful violence or for the defence of property; if a citizen dies as a result of the use of reasonable force in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or if a citizen dies as a result of the use of reasonable force for the purpose of suppressing a riot, insurrection or mutiny²⁹.

Every citizen of Nigeria also has right to freedom of movement. Section 41 of the 1999 constitution provides that every Nigerian is entitled to move freely throughout Nigeria and to reside in any part thereof, and that no citizen will be expelled from Nigeria or refused entry thereof or there from³⁰. Exceptions to these rights are: restrictions on the residence or movement of persons who have

²⁶<https://lawyersonline.ng/lfn/lfn/public-complaints-commission-act/> [Accessed on 14/10/19].

²⁷ Ibid n (27)

²⁸ Fundamental Human Rights in Nigeria. Retrieved from <https://nigerianfinder.com/fundamental-human-rights-in-nigeria/> [Accessed on 14/10/19].

²⁹ <https://lawpadi.com/11-rights-every-nigerian-should-know-about/> [Accessed on 14/10/19].

³⁰ Ibid

committed or reasonably suspected to have committed a criminal offence in order to prevent the person from leaving Nigeria and lawful extradition³¹.

Every Nigerian is entitled to respect for the dignity of person and accordingly no Nigerian shall be subject to torture or to inhuman or degrading treatment. This means no Nigerian can be held in slavery or servitude and no individual shall be regarded to perform forced or compulsory labour, and this is contained in Section 34 of the 1999 constitution³². However forced labour doesn't include: any labour required in consequence of the sentence or order of a court; any labour required of members of the Armed Forces, Police Force, compulsory national service; in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labor required instead of such service; any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or any labour or service that forms part of normal communal or other civic obligations of the well-being of the community³³.

Every individual in Nigeria is also entitled to fair and equal hearing. This means every Nigerian is entitled to fair hearing within a reasonable time by the court or other tribunal established by law and constituted in like manner as to secure its impartiality. This is written in Section 36 of the 1999 constitution³⁴. This right guarantees the following: presumption of innocence; public trial for criminal offence (except in certain circumstances – public safety/order, welfare of child offenders etc.); written charge informing the individual of the detail and nature of the offence; adequate time and facilities for preparation of his/her defence; right to a legal practitioner of his/her choice; right to examine witnesses and call witnesses of his/her own; right to interpreter if he/she cannot understand the language used at the trial; access to the records of the trial proceedings; a person can't be found guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed; no person can be tried for a criminal offence if he/she has been previously either convicted or acquitted for that offence or for a criminal offence having the same ingredients as that offence unless upon the order of a superior court; no person who shows that he has been pardoned for a criminal offence shall again be tried for that offence; no person who is tried for a criminal offence shall be compelled to give evidence at the trial; no person shall be

³¹ Ibid

³² Ibid

³³ Ibid

³⁴ Ibid

convicted of a criminal offence unless that offence is defined and the penalty is prescribed in a written law³⁵.

1.4 Violations of Rights of Nigerians

Human Rights is been defined as the inalienable rights of people. Therefore, they are the legal entitlements which every citizen should enjoy without fear of the government or other fellow citizens³⁶. Human rights are backed by provisions of the law, for there to be a violation of human rights, there must be a form of infringement of rights guaranteed under an existing law. To violate the most basic human rights is to deny individuals their fundamental moral entitlements³⁷.

It has been argued that the issue of human rights abuses and violations prevails in the Nigerian societal structure. And while most of the world's community sees Nigeria as a developing nation, much of the human rights cases still go unreported³⁸. Till now, more and more young men and women including children are sent to detention centres for unlawful arrests, usually without formal charges or just being suspected as a member of Boko Haram or is related to them³⁹.

Human rights violations cut across all spheres of man's existence and the Nigerian security services have been accused of being one of the greatest violators of the said rights in Nigeria⁴⁰. Examples of human rights violations by the security forces in Nigeria includes the Odi massacre, the Zaki Biam massacre, rape of a three year old girl in Gwagwalada, Abuja, killing of a female banker at Mpape, Abuja and so much more⁴¹. These and much more events by the Nigerian security forces have led to violations of the rights of so many Nigerians.

Public officials have also been accused of abusing displaced women, girls that are displaced by Boko Haram victims. In July 2016, Human Rights Watch documented sexual abuse, including rape and exploitation, of 43 women and girls living in seven internally displaced persons camps in Maiduguri, the Borno State capital perpetrated by government officials and other authorities. The report sets

³⁵ Ibid

³⁶ Fundamental Human Right in Nigeria. Retrieved from <https://www.naijalegaltalkng.com/article/other-important-legal-info/217-fundamental-human-rights-in-nigeria/> [Accessed on 14/10/19].

³⁷ Nzarga, F. D. (2014). An Analysis of Human Rights Violation by the Nigerian Security Services. *Journal of Law, Policy and Globalization*, 30, 1-9.

³⁸ Hillary, O. (2018). The Most Recent Human Rights Violations in Nigeria.

<http://www.alternativeniger.org/the-most-recent-human-rights-violations-in-nigeria/> [Accessed on 14/10/19].

³⁹ Ibid

⁴⁰ Oluwaige, I and Anaba, I "Human Rights situation in Nigeria" The Vanguard Newspaper Friday, 5 March 2004

pp. 21-23

⁴¹ Ibid

out in detail how the government is not doing enough to protect displaced women and girls and ensure that they have access to basic rights and services or to sanction the abusers, who include camp leaders, vigilante groups, policemen, and soldiers⁴².

The Nigerian government is fond of disobeying court orders with often damning consequences to follow, and this amounts to violation of the constitution⁴³. Individuals that have been granted bail by courts are still kept in detention against the ruling of the courts. This is also regarded to be violation of human rights⁴⁴. Quite a number of cases in Nigeria have gone through this part of flouting court orders. Few examples will be the case between Sambo Dasuki versus the Federal Government of Nigeria⁴⁵, the case of El-Zakzaky and the Kaduna State Government⁴⁶, and the case between Omoyele Sowore and the Federal Government of Nigeria⁴⁷. There are many more cases as these mentioned ones, and this clearly shows how the federal government is violating the rights of Nigerians. It was because of these violations of the right of Nigerians that made the Federal Government through an Act established the Public Complaints Commission, to help mitigate the violations of rights of Nigerian citizens. The important question to ask is whether this move by the Federal Government has helped to some extent in reducing and protecting the rights of Nigerians.

1.5 Analysing the Protection of Nigerian Citizens by the Public Complaints Commission

It is well documented in the literature that the procedures of the Public Complaints Commission are designed to be result-oriented, because it saves time and delays are avoided⁴⁸. It can therefore be said that the Public Complaints

⁴²Human Rights Situation in Nigeria and Women's Rights Concerns in Mauritania (2018). Retrieved from <https://www.hrw.org/news/2018/04/27/human-rights-situation-nigeria-and-womens-rights-concerns-mauritania/> [Accessed on 14/10/19].

⁴³Tijani, A. (2019). Nigeria is Violating Constitution on the El-Zakzaky and Dasuki Cases. Retrieved from <https://www.africanliberty.org/2019/07/22/nigeria-is-killing-its-constitution-on-the-el-zakzaky-and-dasuki-cases/> [Accessed on 15/10/19].

⁴⁴Human rights violation getting worse in Nigeria, others – CSOs (2018). Retrieved from <https://punchng.com/human-rights-violation-getting-worse-in-nigeria-others-csos/> [Accessed on 14/10/19].

⁴⁵Okakwu, E. (2019). Again, court grants Dasuki bail. Retrieved from <https://www.premiumtimesng.com/news/headlines/340672-again-court-grants-dasuki-bail.html/> [Accessed on 15/10/19].

⁴⁶Ibid

⁴⁷Grant bail to Sowore, co-defendant on liberal terms, Falana tells court (2019). Retrieved from <https://punchng.com/grant-bail-to-sowore-co-defendant-on-liberal-terms-falana-tells-court/> [Accessed on 15/10/19].

⁴⁸Ibid

Commission have made some achievements since its establishment in 1975. In 1995, the commission received 10,013 cases throughout the federation, of which 3,644 cases were satisfactorily resolved. While, 6,369 were pending. In 1996, a total of 4,036 cases, nationwide, were satisfactorily resolved while 5,828 were pending. In 1997, 3,918 cases were satisfactorily settled, while a total of 5,649 were pending. For example in Imo state alone, in 1996, 203 cases was received out of which 199 were satisfactorily resolved while 126 were pending.

The commission resolved 12,000 cases in 2014; however, over 38,000 complaints were received within the period⁴⁹. The commission in Niger State has received 23,425 cases since its activities commenced, the commissioner in charge of the state, Malam Abdulrahman Muhammad disclosed⁵⁰. The commissioner stated that out of the total cases received from both public and private concerns, the commission had been able to treat 23,146 of them with about 277 still ongoing. To break down the cases, 7, 639 came from the inception of the current democratic dispensation in 1999 to date with 5, 921 of them already resolved, while 1, 178 were ongoing. However, most of the cases came from the rural areas and revolved around land disputes and administrative injustices⁵¹. In 2017, the commission successfully settled 285 cases out of the 395 complaints it received from the general public in Kaduna state⁵². However this shows that there is still the need for improvement.

These number of cases that have been addressed by various offices of the commission show they are actually receiving high number of cases from members of the public. Similarly, the numbers of resolved cases by the commission exceed at least 60 percent of the total number of cases they receive. This therefore means that the commission has actually helped in reducing the number of rights violation in Nigeria. However, the commission is still confronted by some challenges.

For example, it is sad and regrettable to note that the commission is politicised and subjugated under the supervision of National Assembly and some law makers under the Committee on Public Petitions who turned the Commission to their personal means of self-enrichment and theft of the Commission's annual

⁴⁹ Nigeria: Public Complaints Commission Resolves 12,976 Cases in 2014 (2015). Retrieved from <https://allafrica.com/stories/201501170165.html/> [Accessed on 15/10/19].

⁵⁰ Ajobe, A. T. (2018). Public Complaints Commission resolves 23, 146 cases in Niger. Retrieved from <https://www.dailytrust.com.ng/public-complaints-commission-resolves-23-146-cases-in-niger-263569.html/> [Accessed on 15/10/19].

⁵¹ Ibid

⁵² Public Complaints Commission settles 285 cases in Kaduna (2018). <https://www.thenewsnigeria.com.ng/2018/06/public-complaints-commission-settles-285-cases-in-kaduna/> [Accessed on 15/10/19].

budgetary funds especially that of 2014⁵³. The commission suffers also from non-enforcement of its decisions. The commission spends its time, financial and material resources, energy, expertise and intellectual resources on a good complaint, the decision to which is dumped in the file without implementation⁵⁴. This is why the commission is sometimes described as a toothless bulldog that can bark but not bite. On the other hand, the public that the commission was created for do not have the understanding of the workings of the commission. The people for whom the public complaints commission was established are not fully aware of the free and quick services of the commission, and this is a challenge for the success of the commission⁵⁵.

1.6 Conclusion and Recommendation

This study sets out to examine how the powers given to the Public Complaints Commission have increased the protection of the rights of Nigerians. This is the major reason why the commission was established. Based on the analysis of the study, it is concluded that the commission have to some extent achieved the objectives why it was achieved, as a number of high cases have been resolved by the commission since its inception. However, the commission is still confronted by a number of challenges.

It is recommended by this study that the law establishing the commission in Nigeria be improved upon to enable the commission carry out its functions effectively. The commission as of now is still controlled by the lawmakers in the country. Therefore making it imperative for the law be tweaked to ensure the commission becomes an independent institution.

There should also be adequate publicity and public enlightenment programme of the functions, powers, and jurisdiction of the commission to enable the people know the existence of public complaint commission. This will ensure the public is enlightened and will be motivated to assess the services of the commission.

Funding of the commission is also very important. Funding is an aspect that is very critical for the success of this institution; indeed, administrative efficiency could be fully realized when the agency in charge is not starved of fund for its operations.

⁵³Corruption in Public Complaints Commission, Nigeria. <https://www.bribenigeria.com/corruption-in-public-complaints-commission-nigeria/> [Accessed on 15/10/19].

⁵⁴ Ibid

⁵⁵ Ibid