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Phone: 08037904182, 08037032855

E-mail: chengloltd@yahoo.com

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The Editor-in-Chief
ESUT, Public Law Journal
Public Law Department
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FOREWORD

This volume 5 of the ESUT Public Law Journal 2024 echoes broadly the multi-disciplinary nature of the Journal addressing several national and international issues that are of global importance. This time, it delved into different sectors of Nigerian economy, from the role of Debt Recovery Agents and Solicitors in asset realization to advocating for progressive fishery management policies for the industry. Aside that, it considered safeguarding the interest of most vulnerables in the society. Not only did it consider the complex and challenging experiences of refugees and asylum seekers amid most global crisis, it sheds light on the multifaceted issues these refugees and asylum seekers face. It exposes some unethical practices against health research participants which are highly detrimental to the physical, psychological, social and emotional well-being of these vulnerable groups. They need protection. The journal equally advocates for a legislation that will enable public health institutions to give medical treatment to a child without parental consent. This edition of the Journal, while showcasing the rationale for minimum age principle, reiterates that every legislation including the VAPPA made in contemplation of juvenile justice system must be made in the best interest of the child. The essence is to achieve the desired restorative criminal justice we seek for a functional re-integration of Juvenile offenders into the society. Hence, the VAPPA providing that a child who is in conflict with the law for rape will be committed to a maximum of 14 years is an

abuse of the minimum age immunity principle, an affront to juvenile justice and will do no child any good and therefore should be repealed. On the international plain, it highlights the activities of the International Committee of the Red Cross (ICRC) in northern Nigeria, a region plagued with insurgencies and armed conflicts. While appreciating arbitration under the law, it questions whether it aligns with Igbo customary arbitration. The Journal showcases the need to preserve the environment by mitigating the adverse effects of projects on the environment to ensure sustainable development. The Journal discusses some contentious issues of gender roles and gender entitlements under native law and custom as well as a contemporary view of the law in admissibility of unregistered registrable instrument in proof of ownership in land. Finally, it highlights statutory requirements for airline operations and duties of civil aviation authority in an effort to encourage respect and strict adherence to operational rules and regulations in the airline industry. The Journal is enriching and inspiring.

Frank Asogwah, Ph.D

Professor of Public Law

Editor-in-Chief.

FROM THE EDITOR'S DESK

The ESUT Public Law Journal, through quality legal research in an effort to bring the desired social change continues to provide solution to fundamental challenges to social development and societal improvement. The Journal in this fifth edition addresses several contemporary issues including highlights on the activities of the International Committee of the Red Cross (ICRC) in northern Nigeria. It exposes the role of Debt Recovery Agents and Solicitors in asset realization. One of the articles considers the complex and challenging experiences of refugees and asylum seekers amid global crisis, the impact of these experiences on their mental health. It sheds light on the multifaceted issues these refugees and asylum seekers face especially in accessing education and healthcare. The Journal exposes most unethical practices human research participants are subjected to which often compels them to give uninformed consent that are highly inimical to their physical, psychological, social and emotional well-being. The Journal also examines arbitration agreement and the legal system and the extent to which common law arbitration aligns with the age long Igbo customary tradition. It emphasises that parties to customary law arbitration willingly submit themselves to the non-judicial adjudication process. No one is coerced into it. No summons, because the essence of summon is to command. The Journal further delves into the vexed and contentious issues of gender roles and gender entitlements under native law and custom while reviewing the recent judicial decision in *Michael Eze & Ors v*

Agnes Nnamani. It resolves issues on who is entitled to perform funeral rites of a deceased who died intestate without a surviving male child and who inherits his property? What is the impact of a subsisting marriage of a daughter of the deceased in such circumstance? Could the absence of a legal right ground a claim based on natural justice, equity and good conscience? Finally, to what extent can a custom accepted by the people of a community be repugnant in the absence of a legal right? The Journal further considers some challenges in the governance of capture fisheries in Nigeria with a view to advocating for a progressive fishery management policies for the sector. It observes huge regulatory gap and that policies meant to sustain small-scale fishers are hardly implemented. While existing legal regime are outdated or unenforced, most administrative policies are hardly implemented. Executive attention is urgently needed to safeguard the economic value of the fishery industry. The environment and what it offers remain vital to human existence and therefore must be protected. The Journal reiterates that Environmental impact assessment (EIA) is a crucial tool for ensuring sustainable development by mitigating the adverse effects of certain projects on the environment. It addressed some significant challenges hindering the effective implementation of EIA in Nigeria. Inside the journal still, is a review of two different Supreme Court decisions in *Banjamin v Kalio*; and *Abdullahi v Adetutu* on admissibility of unregistered registrable instrument in proof of ownership in land. Notwithstanding the contrary decisions of the Supreme Court on admissibility of unregistered registrable instrument in the cases with

Abdullahi v Adetutu being the later in time, *Benjamin v Kalio* represent the correct position of the law and it is submitted that in future, when the court is faced with both decisions for consideration, the Supreme Court will affirm that *Benjamin v Kalio* is the correct position of the law. Among other contemporary issues including contentious matters about life, ESUT Public Law Journal volume 5 observes that while it is the duty of the State to save life, an adult can in exercise of his rights to life and privacy object to a particular type of medical treatment. However, in respect of a child, the court has held that agents of the State can secure a court order to override parental objection to particular type of medical treatment. While the judicial decision is laudable, a legislation that will enable public health institutions to give medical treatment to a child without parental consent and without court order where delay in obtaining a court order may endanger the life of the child is therefore recommended. Similarly, while highlighting the minimum age principle for criminal responsibility in Nigeria, the Journal reviews the implications of section 1(2)(a) of the Violence Against Persons (Prohibition) Act 2015. It observes that committing a child offender of less than 14 years of age to a maximum of 14 years imprisonment is not in the best interest of the child and contrary to the Child's Right Act 2015. It is a harsh legislation, an abuse of the minimum age immunity principle, an affront to juvenile justice and counterproductive. It should therefore be reviewed and possibly repealed. At most, such a child should be sent to reformatories. Such a child is in conflict with the law and generally the juvenile criminal

justice system aims at restorative justice for functional re-integration of the child offender into the society and not otherwise. Finally, in discussing airline operation in Nigeria and Britain, and duties of Civil Aviation Authority, the journal observed that notwithstanding some factors constraining airline operations and viability in Nigeria, some individual operators and the Federal Government apparently did not follow and adopt maintenance principles. These have given rise to the collapse of the federal government airline and some private individuals airlines. The Journal is a strong tool for social change. It makes an interesting literature.

Maria Chigozie Onuegbulam, PhD

Editor

ESUT Public Law Journal

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