

AN APPRAISAL OF THE LIMITATIONS OF JUDICIAL REVIEW OF ADMINISTRATIVE POWERS IN NIGERIA*

Abstract

The exercise of administrative powers is a vital duty of all the tiers of government and other administrative agencies. However, not all aspects of administrative powers are in consonance or within the purview of the enabling statutes or extant laws. As a result, there are increased chances of arbitrariness and interference with the fundamental human rights of the citizens and the rule of law, hence the need for these administrative powers to be checked by an independent body such as the judiciary by way of judicial review. Although the exercise of judicial review of administrative powers in Nigeria has been quiet commendable, however, many challenges or factors hinder the operation of the concept, resulting in its failure to maximally benefit the citizenry, particularly in Nigeria where the law is not developing rapidly enough to meet with the needs of the people. This paper examines the challenges of judicial review of administrative powers in Nigeria with the view to proffering solutions that will address the challenges. The research method adopted in this research is the doctrinal method of research, whereof, primary, secondary and tertiary sources such as the constitution, case laws, text books, journals, newspapers and internet materials were widely consulted. We also adopted the NALT citation guidelines. The research findings show that ouster clauses; executive interference in the appointment of judges, financial constraints, corruption etc badly affect judicial review in Nigeria. The paper however recommends among other things that there is need to improve the judicial system in Nigeria by removing ouster clauses, entrench financial independence, fight corruption to ensure the independence of the judiciary in order to enhance the effectiveness of judicial review.

Keywords: Judicial Review, Administrative Powers, Rule of Law, Human Rights, Independence of the Judiciary

1. Introduction

Judicial review has been recognized as an essential tool for checking administrative powers and actions¹. It is also a basic requirement for the construction of an advanced system to safeguard the liberty and rights of citizens². Judicial review allows individuals, citizens businesses and other groups to challenge the lawfulness of decisions, powers exercised by the three tiers of government and other administrative bodies³. In other words, judicial review ensures the legality of administrative acts, decisions, policy and powers. An aggrieved citizen who challenges the legality of the exercise of any administrative powers or decision must have an unhindered access to the courts to litigate his claim. The citizen must also have an eye on specific remedies depending on the nature of administrative powers being challenged⁴. In many recent decisions, the courts have demonstrated their ability to intervene for the protection of the citizens' rights by awarding damages to aggrieved parties affected by the exercise of administrative powers.⁵ Apart from damages there are other remedies available to aggrieved citizens such as an order of mandamus, certiorari, prohibition, injunction, *quo warrant* to etc⁶. The power of judicial review in Nigeria is significantly vested in the judiciary and the Constitution in this vein empowers the court with the power of judicial review to check and restrain arbitrary exercise of executive, legislature and other administrative bodies to ensure the protection of the rights of the citizens and uphold the rule of law. The exercise of judicial review of some administrative powers in Nigeria has recorded a good number of success. However, many factors hinder the effective operation of the concept of judicial review. That is, the practice of judicial review in Nigeria is faced with a lot of obstacles which limit its effectiveness resulting in its inability to maximally benefit the citizenry. Some of these challenges have been identified to include but not limited to; legislative restrictions, poverty, ouster clauses and the lack of full autonomy for the judicial and improper institution of matters before the court. This paper therefore focuses on the appraisal of the challenges and limitations affecting the exercise of judicial review

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¹ R.F Mahmoud, 'An Evaluation of The Judicial Control of Administrative/ Legislative Discretion in Nigeria' <<https://www.ajol.info.co>> Accessed on 1st March 2023 by 8:40am.

² Sushmita Chondhary, 'Judicial Review of Administrative Action' <<https://blog-ipleadersin-d>> accessed on 17th March 2023.

³ A.E. Obidimma, 'The Impact of Judicial Review of Administration on the Application of Human Rights and the Rule of Law in Nigeria' *African Journal of Constitutional and Administrative Law* (2017) 1(1) 78.

⁴ *Ibid.*

⁵ For instance court's decision in the case of *Garba v. University of Maiduguri* (1986) 1NWLR (pt 18) 55Q., *Dele Giwa v. Inspector General of Police* (1986) 5 NWLR pt.45 @ 828.

⁶ A.E. Obidimma, 'The Impact of Judicial Review of Administration on the Application of Human Rights and the Rule of Law in Nigeria' *African Journal of Constitutional and Administrative Law* (2017) 1(1) 83-84.

of administrative powers in Nigeria, the application of judicial review in Nigeria and the remedies available for aggrieved citizens under judicial review. The paper concluded with recommendations/suggestions that will advance or address the challenges of judicial review of administrative powers in Nigeria.

2. Conceptual Clarifications of Some Key Terms

A good understanding of this paper will be elusive without an insight into some key concepts. These key concepts include.

Judicial Review: Judicial review has been defined as the power of a court to examine the acts of the other branches of government, lower courts, public or administrative authorities and uphold them or invalidate them as may be necessary.⁷ According to Igwenyi,⁸ judicial review is the power conferred on courts of law by the constitution and other laws in that regard to pronounce a law, policy or action of any of the other organs of government invalid if such law, policy or action violates the provisions of the constitution or valid if such law, policy or action is in agreement with the intendments of the constitution. Judicial review is a specialized remedy in public law by which courts exercise supervisory jurisdiction over the acts of the executive, legislative arm of government and other administrative agencies.

Administrative Powers: Administrative powers are the powers to administer or enforce a law.⁹ It also means all actions which may be taken by the boards, government organs which are necessary or appropriate for the effective management of the administrative system.¹⁰ Administrative power can be executive, legislative or judicial in nature.¹¹ Administrative power seeks to carry laws into effect, that is, practical application of laws and the execution of the principles prescribed by the statutes.

Judicial Independence: This refers to the non-interference of the executive, legislative or any other administrative body or private entities in judicial affairs.¹² It also means that the judges and other judicial officers should not be subjected to inappropriate influence from the other organs of government or private interest.¹³ Judicial independence plays a cardinal role in judicial review because without independence, the judiciary cannot offer the check and balances that are necessary to prevent any branch of government from exerting excess powers.

Rule of Law: The rule of law is a liberty centered constitutional concept which stipulates that everything must be done in accordance with the law.¹⁴ It encapsulates such ideals as government according to the law, equality before the law, the independence and autonomy of the judiciary among others.¹⁵ It also implies that government authority may only be exercised in accordance with written laws, which are adopted through an established procedure. The principle of rule of law intends to safeguard against arbitrary rulings in individual cases.

3. The Application of Judicial Review of Administrative Powers in Nigeria

Judicial review of administrative powers is aimed at making sure that administrative bodies such as the executive, legislature and other public bodies act within the bounds of legality.¹⁶ The ability of the judiciary to review judgments within its hierarchy through the system of appeals from the lower courts to the Supreme Court is another vital aspect of judicial review function of the judiciary.¹⁷ In exercising the judicial function of reviewing administrative powers, the courts generally recognize that the statutory responsibility for performing a given function or duty has been given to the administrative agency or organ of government concerned and even when such duty is delegated, it is expected that they act within the legal bounds. Thus, the courts review the acts, policy, powers or decisions of administrative agencies, or government organs for the sole purpose of determining whether or not the agency has acted within legal limits. For instance in the case of *AG of Abia State & 35 Ors v. AG of the Federation*¹⁸, the Supreme Court held that the National Assembly has no power to make laws on tenure of local

⁷ E. Malami, *The Nigeria Constitutional Law* (Princeton Publishing Company, 2006)410

⁸ B.O. Igwenyi, *Modern Constitutional Law in Nigeria* (Omega Global Publishing Co. Ltd, 2019) 110

⁹ Legal Raj, 'Administrative powers and Discretionary power' <<https://legalrag.com>> accessed on 20th April 2023 by 10:15am.

¹⁰ US Legal, 'Characterization and Classification of Administrative Powers' <<https://administrativelaw.uslegal.com>> accessed on 15th March 2023 by 9:18pm.

¹¹ *Ibid*

¹² Leke Kehinde, 'Achieving Judicial Independence in Nigeria' <<https://linkedin.com>> accessed on 23 March 2023 by 8:45pm.

¹³ *Ibid*

¹⁴ M.i. Nwogu, 'The Rule of Law in Governance in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* (2010) 1 (1) 187

¹⁵ *Ibid*.

¹⁶ I.J. Udofia, 'The Power of Judicial Review in the promotion of Constitutionalism in Nigeria; Challenges and Prospects' *Journal of Law Policy and Globalization* (2015) 40, 22

¹⁷ B.O. Igwenyi, *Modern Constitutional Law in Nigeria* (Omega Global Publishing Co. Ltd, 2019) 107

¹⁸ (2002) 6 NWLR (pt. 763) 264

government chairmen and councilors and no power to divide the local government into electoral wards except for the capital territory Abuja. Also, in the case of *Inakogu v. Adeleke*¹⁹ there was an impeachment of Governor Rahidi by a splinter of the State House of Assembly. The removal was challenged before the court. The Court of Appeal gave judgment against the manner in which the purported impeachment of the Governor was carried out. Dissatisfied with the judgment, the splinter legislature went on appeal at the Apex Court. It was a clear case of judicial review; the court was to determine the constitutionality of the procedure adopted by the splinter legislature. The Supreme Court, per Niki Tobi JSC declared the impeachment as unconstitutional. Again, in the case of *AG Lagos State v. AG Federation*²⁰ where it was alleged that the president withheld the statutory allocation that was due to Lagos State from the Federation Account on the ground that the state created local government council without compliance with the constitutional powers. The Supreme Court in the exercise of its power of judicial review declared the presidential act unconstitutional, null and void; unfortunately, the president did not despite the court's judgment release the funds. In *Garba v. University of Maiduguri*²¹ the Supreme Court quashed the decision of an administrative panel set up by the 1st respondent which was headed by the Deputy Vice Chancellor for not following the local down procedure for expelling the appellant.

Flowing from the cases above, we submit that where an enabling law or the constitution stipulated procedure to be followed in the execution of laws or carrying out a particular act and any of the organs of the government or administrative body acts in contravention to the laid down procedure, the court will waste no time in invalidating such act, award damages or make appropriate orders to address the breach or actions complained of. The courts also invalidate an exercise of power or function which is ill motivated or that is repugnant to the constitution. All the administrative bodies and agencies are required to take into consideration the rules of natural justice and fair hearing when exercising their statutory powers directly or by delegation.

4. Limitations or Factors affecting Judicial Review of Administrative Powers in Nigeria

Judicial review is a vital instrument for checking and restraining the excesses of administrative powers. It is of very significant in the modern society where the administrative powers can be used to interfere with the liberty and right of the people. However, many factors hinder the smooth operation of the concept of judicial review. Some of the challenges that limit the exercise of judicial review of administrative powers in Nigeria are discussed below:

Lack of Judicial Independence: The judiciary is said to be the last hope of a common man particularly with respect to protecting the human rights and enforcing the rule of law. Thus, by all modern standards, judicial independence entails that the judiciary should be independent from the interference of the other two arms of government and other private interest. *The 1999 Constitution of the Federal Republic of Nigeria (as amended)* drove this point home in *section 6* by vesting judicial powers of the federation in the courts mentioned in the said section. In order to demonstrate severe intolerance to the idea of meddling with judicial affairs by legislature, *the Constitution (supra)* in *section 4(8)* subjects the legislative powers of the legislature to judicial scrutiny, the *sub-section* under reference specifically prohibits the enactment of any law that purports to oust the jurisdiction of the court. The zeal to strengthen the judiciary was further expressed through the establishment of the National Judicial Council (NJC).²² The significant powers conferred on NJC by item *(i) paragraph 2(a) to (i) of the third schedule (ptl) to the Nigerian Constitution (supra)* include the powers to recommend the appointment and removal of judges at all levels, complete control of funds for the judiciary, disciplinary control of judges and judicial staff as well as control of broad issues of policy and administration. On the basis of Constitutional provisions on the independence of the judiciary there is an obligation on the government and other institutions to respect and observe the judicial independence. However, the constitutional provisions may not by themselves ensure the independence of the judiciary as judicial independence means more than absence of interference from the other organs of government. Judicial independence also implies that "the deciding officers shall be independent in the full sense, from external direction by any political and administrative superiors in the dispensation of individual cases and inwardly free from the influence of personal gain and partisan or popular bias. Thirdly that day to day decisions shall be reassured rationally justified in terms that take account of both of the demands of general principles and the demands of the particular situation".²³

Ouster Clauses: Ouster clauses are general provision in an enactment, law, or Constitution which precludes or seeks to oust the jurisdiction of courts of law either partially or totally over a subject matter²⁴. Ouster clauses pose as one of the impediments to the judicial review of administrative powers as it precludes the judiciary from

¹⁹(2007) 4 NWLR (pt. 1025) 423

²⁰(2004) 20 NSCQR, 99

²¹(1986) 1 NWLR (pt. 18) 550

²²See *The 1999 Constitution of the Federal Republic of Nigeria (as amended) Section 153*

²³A. Aguda, *The Judicial Process and the Third Republic* (F&A Publishers, 1992) pp 35-36

²⁴M.C. Anozie, *Notes on Nigeria Constitutional Law* (Pymonak Printing & Publishing Co. 2006) 79

reviewing certain subject matters. Ouster clauses operate in stopping the court from questioning the other organs of government on their actions that are unlawful, unreasonable and procedurally unfair²⁵. This development hinders the courts in ensuring that the arbitrariness in government activities which the rule of law frowns at is not curtailed. Ouster clauses are in sharp contrast to the provisions of the *Constitution (supra) Section 4(8)* which prohibits the National Assembly or the State House of Assembly from enacting any law, which ousts or purports to oust the jurisdiction of the court or judicial tribunal established by law. Thus, legislative powers should not be exercised inconsistently with the provisions of the Constitution. Despite the clear provisions of the law, ouster clauses are inherent in the Constitution (supra). For example, *Section 6(6) (c)*: which provides that the judicial powers vested in accordance with the foregoing provisions of the Constitution, *Section 6*, shall not except as otherwise provided by the Constitution extend to any issue or question as to whether any act or omission by any authority or person as to whether any law or any judicial decision is in conformity with the fundamental objectives and directive principle of state policy set in *Chapter 2 of the Constitution*. This provision ousts the jurisdiction of every court in Nigeria to entertain every issue or dispute arising from the *1999 Constitution, Chapter 2*. Thus where the government fails to provide security, electricity, employment etc. as provided in *Chapter 2 of the Constitution*, no individual or group has the right to sue the government and even if they sue, the court is rubbed of the jurisdiction to entertain such suit. Again, the 1999 Constitution, Section 143, provides for when and how a president or his vice may be impeached from office. A quick rundown of this procedure is that a notice of allegation shall be in writing signed by not less than one third of the National Assembly stating that the holder of the office of the president or vice president is guilty of misconduct in the performance of the functions of his office, detailed particulars of which shall be specific. Thereafter, upon a motion by two-third majority of the National Assembly, this allegation against the president or vice will be investigated by a panel of seven persons who are of unquestionable integrity and not members of any public service and shall be appointed by the chief justice of the federation on the request of the senate president. This Section 143(10) therefore bars the court from entertaining any issue or matter arising from the investigation of this panel or any dispute relating to the impeachment process of the National Assembly.

Similarly, Section 188(10) provides that no proceedings or determination of the panel or of the House of Assembly or any matter relating to such proceedings or determination shall be entertained or questioned in any court. This Section relates to the impeachment of a governor or his deputy and ousts the jurisdiction of the court to entertain any matter relating to the investigation of the panel or impeachment process by the State House of Assembly. It must be stated that the ouster clause provision in Section 188(10) will only come into effect if the provisions of Section 188(1-9) has been complied with in an impeachment proceeding. Thus, where the constitutional requirements in that section is not strictly met, the court has jurisdiction to entertain such matter, but where it has been strictly complied with, the, ouster clauses come into full effect. Section 308 of the Constitution is also another ouster provision. It provides that: No civil or criminal proceeding shall be instituted or continued against a person holding the office of the president, vice president, governor or deputy governor during his period of office. This provision ousts the power of the court to entertain any matter involving a sitting president, vice president, governor, because they have immunity.

Locus Standi: The Supreme Court in the case of *Adenuga v. & Odemeru*²⁶ defined *locus standi* as the legal capacity based on sufficient interest in a subject matter to institute legal proceedings in the pursuit of a certain course. The problem of *locus standi* affects the full utilization of the judicial review exercise to secure the human rights of the citizens. Before now, the courts have always insisted that a person must have *locus standi* in order to be qualified to institute an action in court²⁷, that is, he must have sufficient interest in the action which he requires the court or tribunal to adjudicate on. In the case of *AG Kaduna State v. Hassan*,²⁸ the Supreme Court reiterated the reason for the doctrine of *locus standi* thus: the legal concept of standing or locus is predicted on the assumption that no court is obliged to provide a remedy for a claim in which the applicant has a remote, hypothetical or no interest. This position of the court deprives an aggrieved party the chance to seek redress for his grievances against the state or individual. However, this doctrine has been relaxed in the light of the recent decision in the case of *Fawehinmi v. President of Federal Republic of Nigeria*.²⁹ However; the application is no doubt a Constitutional reality.

Poverty/Reluctance to Seek Judicial Review: The system of judicial review is not automatic, that is the courts cannot by itself take cognizance of the excesses on the part of the government or individuals³⁰. The court can only

²⁵*Ibid*

²⁶(2003) FWLR (pt. 158) 1288.

²⁷*Adenuga v. Odemeru*(supra)

²⁸(1985)2NWLR(pt.8)483.

²⁹(2007) 14 NWLR (pt. 1054) 275

³⁰A.E. Obidima 'The Impact of Judicial Review of Administration on the Application of Human Right and Rule of Law in Nigeria'*African Journal of Constitutional and Administrative Law* (2017) 1(1)96

intervene, at the request of someone who has been adversely affected by the administrative action or powers. However, in Nigeria, many persons are reluctant to approach the court for redress even when their fundamental rights are breached. This is as a result of poverty, lack of money for filing suit and payment of professional fees to lawyers. As a result of this majority of the aggrieved citizens' resort to self-help, extra judicial killing, endurance or leaving everything in the hands of god.

Slow and Cumbersome Judicial Process: In spite of the many remarkable efforts made in recent times to improve the judicial process in Nigeria such as the introduction of virtual court proceedings, enactment of *Administration of Criminal Justice Act*, the system is still slow and cumbersome. This can be attributed to the mandatory technical processes that must be followed through initiating the processes as well as the trial.³¹ Apart from these technical issues, there is also the issue of corruption within the system which compounds the issue of delay in the judicial process. These ultimately result in not only delay in justice but to its eventual denial. Most times, the litigants get tired and give up and some of them even die while waiting for justice. All these perpetuate the same injustice which the judiciary is meant to address.

Nolle Prosequi: This refers to the discretion given to the Attorney General to stay proceedings before judgment is given in any court of law in Nigeria.³² The Attorney General has the discretion to determine whether any criminal prosecution shall be continued or discontinued.³³ The power of *nolle prosequi* is vested in the Attorney General of the Federation and the States.³⁴ The power of *nolle prosequi* is not subject to any form of judicial control and this was affirmed by the Supreme Court in the case of *State v. Illori*³⁵ where the court held that Attorney General need not give reasons for exercising this power. The power of *nolle prosequi* is expected to be exercised in the interest of justice and to prevent abuse of legal process. But even where the power has been flagrantly misused, the courts have no legal capacity to control such abuse.³⁶ Statutory exclusion of judicial intervention where an act has given the discretion to exercise powers on an administrative authority without making 'good faith' a relevant prerequisite in the exercise of the power, of such administrative powers.³⁷ This situation was clearly illustrated by the decision of the court in *Yusuf v. Egbe*,³⁸ where the plaintiff/ respondent had used the defendant / appellant who was at that time the Inspector General of Police for unlawful detention under the provisions of the *Armed Forces and Police (Special Powers) Decree No. 24.1967*, The Court of Appeal reversing the judgment of the High Court held that the public officer protection law contains no qualification of 'good faith' and the court ought not to read into statute words of limitations.

Corruption and Undue Influence: It is a catholic knowledge that judges are no longer allowed to do their jobs because of corruption by the political class who use money and undue influence to corrupt them. The result is that judges to say the least are no longer given the respect they used to enjoy among the people.

5. Remedies Available in Judicial Review

An applicant for a judicial review of an administrative power must have an eye on a specific remedy depending on the nature of the power being challenged and the form of grievances he seeks to redress. Remedies available to an aggrieved party in judicial review cases are mainly prerogative in nature³⁹ and they are discussed below:

Mandamus: This simply means an order to compel the performance of a public duty.⁴⁰ It is usually a first resort where no other remedy is available when a public institution fails to perform a public duty.⁴¹ The civil rights and obligations of some citizens are bound to be affected, it is an order which a court of law can make as a consequential order in any deserving case before it. In *Gani Fawehinmi v. Aliu Akilu & Anor*,⁴² the Lagos State Attorney General refused to endorse his refusal to prosecute on an application brought by a private prosecutor. The application was for leave to effect a private prosecution of the security officers suspected of having murdered journalist. After a protracted challenge of the *locus standi* of the applicant, to bring a private prosecution, a Lagos State High Court finally ordered the Lagos State Attorney General to do her duty in the event, her office opted to

³¹*Ibid*

³² A.Ige, 'Constitutional and Judicial Legal Principles and Doctrines' <<https://unilagedu.ng>> accessed on 26th May 2022.

³³The 1999 *Constitution (as amended) Section 174*

³⁴*The 1999 Constitution of the Federal Republic of Nigeria (as amended) Section 211.*

³⁵(1983) 2 SC. 155.

³⁶*Ibid.*

³⁷*Ibid*

³⁸(1957)2NWLR(pt.56)341

³⁹A.E. Obidima 'The Impact of Judicial Review of Administration on the Application of Human Rights and Rule of Law in Nigeria' *Journal of Constitutional and Administrative Law* (2017) 1 (1) **84**

⁴⁰Mahmoud, 'An Evaluation of the Judicial Control of Administration Legislative Discretion in

Nigeria' <<http://jubitchambers.com>> accessed on 5th March 2022 by ll:15am

⁴¹*Ibid.*

⁴²(1957)2NWLR(pt.56)341

prosecute the suspects directly. Thus, a mandamus is used to compel a lower court, tribunal or public authority to carry out its judicial function or other public duty if it is failing or refusing to perform,

Certiorari: This is an order issued to a court or judicial tribunal or a private organization exercising a quasi-judicial function to have the record of its proceedings brought before a superior court for review and if bad, quashed⁴³. Whenever, anybody having the legal authority to determine questions affecting the right of citizens and having the duty to act judicially, acts in excess of their legal authority, they are subject to the controlling jurisdiction of higher or superior courts.⁴⁴ In the case of *Garba v. University of Maiduguri*⁴⁵ the Supreme Court had no difficulty holding that the university disciplinary panel had exceeded its jurisdiction. The panel had been set up to investigate alleged acts of looting and arson against the demonstrating students. Consequently upon which they were found guilty and rusticated. The students filed an action seeking their reinstatement arguing that the panel upon whose recommendation their dismissal was based had exceeded its lawful brief by arrogating to itself the function of a court of law. The apex court invoked certiorari to quash the decision of the panel.

Prerogative powers: This is the powers exercised by the state whether in peace or during war, for the defence of the realm or the training or maintenance of the armed forces.⁴⁶ The prerogative powers can be applied in many circumstances including the treatment of aliens, employment of government servants among others.⁴⁷ It remains the function of the court to decide whether and to what extent, the alleged prerogative exists.⁴⁸

Prohibition: A prohibition is an order of court restraining an inferior court or tribunal, public or administrative authority from exercising its judicial or quasi-judicial powers.⁴⁹ An order of prohibition may be pre-emptory to stop a judicial body from commencing its proceedings at all, or a temporary prohibition until certain conditions are met at which time the order will be discharged.⁵⁰ An order of prohibition prevents, or forbids unlawful assumption of jurisdiction.⁵¹ It also stops or arrests midway a lower court, tribunal, public or administrative authority from exercising its judicial or quasi-judicial powers which is likely to affect the applicant's right.⁵² Thus, an order of prohibition is preventive in nature, rather than corrective.

Injunction: An injunction is an order of court prohibiting a person or an authority from doing a specific act.⁵³ An injunction may be granted in any kind of court proceeding to prohibit any kind of thing from being done and to maintain the *status quo* until the matter is heard, when an injunction is granted, a breach of it is usually punished as a contempt of court.⁵⁴ An injunction can be interim, interlocutory, or perpetual if it deals with time.⁵⁵ There are other types of injunction such as *mareva* injunction which is a temporary injunction to restrain a person from removing property from jurisdiction pending the hearing of a matter.⁵⁶

Quo warranto: Another form of remedy under judicial review is *quo warranto* which simply means by what authority.⁵⁷ It is a remedy, formerly requiring a person to show by what authority he exercises a public office, franchise or liberty. It is normally used to seek remedies on people occupying political offices in a situation where they have acted beyond their powers, an aggrieved party will bring an action for such act formerly asking by what authority did such political office holder acted.⁵⁸

6. Conclusion and Recommendations

The exercise of judicial review of administrative powers in Nigeria portends well for the promotion of constitutionalism in Nigeria. Since the inception of the current democratic dispensation in Nigeria, there have been a number of occasions when the intervention of the courts, especially the Supreme Court was sought in

⁴³*GaniFawehinmt v. Legal Practitioners Disciplinary Committee* (1985) 1 NWLR pt.7 p.300

⁴⁴*Ibid*

⁴⁵(1986)1 NWLR (pt18) 550

⁴⁶Sect/on 5 of the *Constitution of the Federal Republic of Nigeria 1999(as amended)*

⁴⁷S. Miguel 'Squaring the Circle Democratizing Judicial Review and the counter institutional difficulty' <<https://www.ess.com>> accessed on 4th March 2023

⁴⁸*Majoroh v. Prof MA. Fassai*(1987) 3 NWLR 42

⁴⁹JABJTA Chamber, 'Judicial Review of Administrative Action in Nigeria' <<https://jabitachambers.com>> accessed on 6th March 2023 by 10 :11pm.

⁵⁰*Ibid*

⁵¹*Ibid*

⁵²*Ibid*

⁵³*Adegbemo v. Akintilo* (2010) 3 NWLR Pt.11827541

⁵⁴*University of Uyo & Ors v. Essel*(2006) ALL FWLR pt.315 @ 96

⁵⁵*Ibid*

⁵⁶*Ibid*

⁵⁷Mariam Webster, 'Definition of QuoWarranto' <<https://marianwebster.com>> accessed on 6th, February 2023 by 12:45pm.

⁵⁸Legal Services, 'Challenging a Decision's Application for Judicial Review- Common Wealth Application for Judicial Review' <<https://www.lawhandbook.sa.gov.au>> accessed on 7th March 2023 by 10:30pm

various constitutional, electoral and administrative matters. Thus, the essence of judicial review has always been to promote democratic culture, ensure that administrative powers are exercised within legal bounds and strengthen the confidence of the populace in the judiciary as the last hope of a common man. The judiciary through the exercise of judicial review has made tremendous efforts to live up to their esteemed position in a plethora of cases. However, as a result of some seeming impediments and loopholes in the general principle of judicial review, as well as the peculiar problems of the Nigerian judiciary, judicial review has not been able to attain its optimum usefulness in checking the abuse of administrative powers. It is hoped that, if the recommendations proffered in this paper are effectively implemented, the exercise of judicial review of administrative powers in Nigeria will be more efficient and result oriented.

Judicial review of administrative power in Nigeria has been able to reduce the recklessness, excessiveness and abuse of administrative powers. However, there are some aspects of judicial review application that hamper it from achieving its purpose, aim and objectives. This paper has highlighted and analyzed some of the impediments and it is our firm view that, for a more effective application of judicial review of administrative powers in Nigeria, the following recommendations have to be implemented. Firstly, the independence of the judiciary need to be enhanced and improved. The judiciary should be totally free from executive and legislative influence to enable them function effectively, government should ensure that the constitutional provisions to secure the financial independence of the judiciary is effectively implemented both at the federal and state levels. The funding of judiciary should come from consolidated revenue fund of the federation. Judicial officers on their part, should ensure that they maintain the independence of the judiciary by making efforts to eschew all personal biases and interest in deciding the matters brought before them. Secondly, some of the provisions of the laws, such as the constitution which oust the jurisdiction of courts should be amended to allow the courts have the full power to review all administrative powers and actions. For instance, the provision of the *1999 Constitution, Chapter 2*, should be amended to allow citizens who may feel aggrieved by government's inability to provide the social services mentioned in the said section challenge the government at courts. This at least will make the government more responsible.

Thirdly, the doctrine of *locus standi* in Nigeria's legal system should be relaxed so as to give citizens the opportunity of challenging any law or administrative action that deserves to be challenged. There is need to amend the constitution and other laws on the issue of *locus standi* and access to court by specifically providing for access to court by any Nigerian in order to challenge any administrative abuse of power or to preserve, protect and defend our extant laws just as it operates in other countries. Furthermore, the decision of the court in *Fawehinmi v. President of Federal Republic of Nigeria (supra)* not being a Supreme Court decision has not finally settled the controversy on the issue of *locus standi* in Nigeria. Fourthly, there should be funding and equipment of already established government agencies such as Legal Aid Council for more efficient handling of *probono* cases for indigent citizens who don't have money to initiate court process to challenge abuse of administrative powers. Fifthly, the appointment of judges should be totally insulated from the executive arm of government. This is because when judges are nominated by governors or the president or ministers etc they tend to be their boys when there are serious political cases in their states or at the federal level. It is these judges that are nominated into election tribunals and other contentious bodies. Finally, in addition, there cannot be independence of judiciary if the financial independence provided in the constitution is not finally granted to it by the operators of our laws particularly the executive arm of government which acts as if it is superior to the other two arms of government.