

IMPOSITION OF PENALTIES BY ROAD TRAFFIC CONTROL AGENCIES IN NIGERIA*

Abstract

Traffic management remains one of the major challenges of traffic authorities in Nigeria. To ensure the safety of road users, the Federal Government established the Federal Road Safety Corporation by virtue of section 5 of the Federal Road Safety Commission Act. The States of the Federation by item 19 of the concurrent list part 11 of the Constitution of the Federal Republic of Nigeria 1999(as amended)have not only strengthened and made laws for themselves, but have established traffic agencies to regulate the traffic management activities within the various States. The researcher will examine the imposition of penalties by road traffic control agencies in Nigeria. The researcher employs doctrinal research method in consideration of primary and secondary source materials which include the Statutes, Case laws, Book, Journal Article, Newspaper publications and Internet Resources. There has been incessant usurpation of the duties of the court and imposition of penalties by the traffic control agencies in Nigeria and these has led to bribery and corruption, indiscipline and lawlessness, as the motorists confidently violate the traffic rules and part with few silver coins to the traffic agencies. This have increased cases of traffic violations in the country. The researcher recommends that the section of the traffic laws that expressly mandates or authorizes a traffic officer to impose fine negatives the settled position of the law that only a court of competent jurisdiction can try an offence and impose penalty. This calls for an urgent amendment to the provision of such laws that toed the path of inconsistency and neglect to the court and the Constitution of the Federal Republic of Nigeria.

Keywords: Penalties, Fines, Traffic Offences, Traffic Penalties/fines, Road Traffic Agencies.

1. Introduction

As society evolves or grows from rural areas to cities, urbanization sets in. There is population growth and shift of economic activities from agricultural to industrial setting and transformation of the society. These have led to corresponding increase in the number of vehicles for both private and commercial purposes to accommodate the large population and commensurate the complexity of the city. The trend of rising traffic activities attracts new policies and laws to regulate the conduct of motorists for the safety and security of lives, property, and the environment, especially for road users. Road transportation is basically the most utilized of the means of transportation accounting for over 70 per cent of the movement of persons and goods globally.¹ There are various categories of road users namely vehicle owners and pedestrians. To ensure the safety of the road users, Federal Government of Nigeria established the Federal Road Safety Commission (FRSC) in February 1988. The establishment of FRSC by Decree No 45 of 1988 as amended by decree 35 of 1992 later cited as FRSC act (CAP 141) Laws of the Federation of Nigeria (LFN) 1990 and re-enacted as FRSC (Establishment) Act 2007 was in line with the principles of good governance. States of the federation have not only strengthened and made laws for themselves,² but have established traffic agencies to regulate the traffic management activities within the various states. These traffic agencies overtime impose penalties on motorists without due regard to the provisions of the constitution and as such breed bribery and corruption, indiscipline and lawlessness, and confidence on the part of the motorists. However, some traffic laws empower its state traffic agency to impose fines on traffic violators. This is provided in section 18(1) of Lagos State Traffic Management Law³ and 11(1)(c) of the Anambra State Road Traffic Management Law⁴. Section 18(1) provides that ‘any fine imposed on any person as set out in the Second Schedule to this Law shall be paid either on the spot where it is imposed by a Mobile Court or within twenty-four (24) hours where imposed by a Road Traffic Officer on highway patrol.

2. Traffic Agencies and their Statutory Functions in Traffic Regulation in Nigeria

Road traffic fatalities are responsible for several deaths in Nigeria. According to the WHO data published in 2018 road traffic accidents deaths in Nigeria reached 40,061 or 2.07% of the total deaths.⁵ The death rate is 29.50 per 100,000 of population and it ranks Nigeria #41 in the world.⁶ There are both Federal and State government

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¹International RoadTrafficandAccidentDatabase<www.internationaltransportforum.org/irtad/datasets.html>accessed on 31 March, 2020

²Item 19 of the concurrent list part 11 of the CFRN 1999(as amended)

³Lagos State Traffic Management Law, 2008

⁴Anambra State Road TrafficManagement Law 2015

⁵ World Health Ranking.com <<https://www.worldlifeexpectancy.com/nigeria-road-traffic-accidents>>accessed on 22 April, 2020

⁶Ibid

agencies empowered by different enabling laws to regulate and reduce road traffic fatalities in Nigeria. They include:

Federal Road Safety Commission (FRSC)

The period before 1988 shows no specific and approved policy that addresses fatalities on Nigerian roads. Notwithstanding, some actions were taken in an attempt to address the issue of road accident in Nigeria. For example, Shell Petroleum Development Company of Nigeria undertook a notable effort to institute a formidable road safety program between 1960 and 1965. Also the Nigerian Army undertook the training of its officers and men on road safety issues in the early period of 1970 which also raised the consciousness of road safety in Nigeria. Consequently the Nigerian Army instituted in 1972 the First Public Road Safety Campaign through an annual Road Safety Week.⁷ The first deliberate policy on road safety was the creation in 1974 of the National Road Safety Commission (NRSC) by the then Military Government. The impact of the Commission was however, not sustained. In 1977, the Military Administration in Oyo State Nigeria established the Oyo State Road Safety Corps which made some local significant improvements in road safety and road discipline in the state that lasted till 1983, when it was disbanded by the Federal Government which led to the establishment of the Federal Road Safety Act in 1988 to address the carnage on the highways.⁸ The FRSC has presence in all the States of the Federation and also the Federal Capital Territory. The statutory functions of the FRSC are contained in the Federal Road Safety Act, Section 10 (2) to (5).⁹ The functions are:

- a) make the highway safe for motorists and other road users;
- b) recommending work and devices designed to eliminate or minimize accidents and advising the Federal and State Governments including the Federal Capital Territory Administration and relevant governmental agencies on the localities where such works and devices are required;
- c) Educating motorist and members of the public on the importance of discipline on the highway.
- d) Preventing or minimizing accident on the highway;
- e) Clearing obstruction on any part of the highways;
- f) Educating drivers, motorist and other members of the public generally on the proper use of the highways;
- g) designing and producing the driver's licence to be used by various categories of vehicle operators;
- h) determining from time to time, the requirements to be satisfied by an applicant for a drivers licence;
- i) designing and producing vehicle number Plates;
- j) the standardization of highway traffic code;
- k) preventing or minimizing accidents on the highways;
- l) clearing obstruction on any part of the highways;
- m) educating drivers, motorist and other members of the public generally on the proper use of the highways;
- n) giving prompt attention and care to victim of accidents;
- o) conducting researches into causes of motor accidents and method of preventing them and putting into use the result of such researches;
- p) Establishment, functions, etc. of the Federal Road Safety Corps.
- q) determining and enforcing speed limits for all categories of roads and vehicles and controlling the use of speed limit device;
- r) co-operating with bodies of agencies or groups engaged in the road safety activities or in the preventing of accidents on the highway;
- s) making regulation in pursuance of any of the functions assigned to the Corps by or under this Act;
- t) regulating the use of sirens, flashers or beacon lights on vehicles other than Ambulance and vehicles belonging to the Armed Forces, Nigeria Police, Fire Service and other Para-Military Agencies;
- u) providing Roadside and mobile clinics for the treatment of accident victims free of charge;
- v) regulating the use of mobile phones by motorist;
- w) regulating the use of seat-belts and other safety devices;
- x) regulating the use of motorcycles on the highways;
- y) maintaining the validity period for driver's licenses which shall be three years subject to renewal at the expiration of the validity period; and
- z) Performing such other function as may, from time to time, be assigned to the Corps by the Commission.

⁷ SA Balogun, *op cit*

⁸Moses Akawe, 'Road Safety Corps: Going Back to the Basics' The Voice Newspaper <[https://en.m.wikipedia.org/wiki/Federal_Road_Safety_Corps_\(Nigeria\)](https://en.m.wikipedia.org/wiki/Federal_Road_Safety_Corps_(Nigeria))>accessed on 28 April 2020

⁹FRSC (Establishment) Act 2007, s.10(2)(3).

In addition to the exercise of these functions, Corps of the Commission have the power to arrest and prosecute persons reasonably suspected of having committed any traffic offence.¹⁰

Lagos State Traffic Management Authority (LASTMA)

This is a State owned traffic agency under the Ministry of Transportation and was founded in 2000 to transform the State transportation system to ensure free flow of traffic in the State and also reduce road accidents.¹¹ It was created by the former Governor of Lagos State, Asiwaju Bola Ahmed Tinubu in July, 2000.¹² It was a millennium effort of the Lagos State Government to bring more sanity to Lagos roads. Section 14 of the Lagos State Traffic Management Authority¹³ provides for the functions of the authority thus:

- a) controlling traffic and enforcing State and National Laws that govern the safe use of vehicles on roads in the State;
- b) deterring and apprehending road traffic offenders;
- c) conducting highly visible day and night traffic patrols to enforce traffic rules and regulations and clear the highways of obstruction;
- d) reducing the incidence and severity of road traffic accidents;
- e) enforcing the use of bus stops and bus terminals;
- f) identifying, developing, promoting and maintaining new or alternative methods of traffic management and road safety;
- g) providing telephone accessible emergency towing services for broken-down vehicles;
- h) maintaining a register of traffic violators;
- i) employing mobile and random breath testing methods to deter driving under the influence of alcohol;
- j) safeguarding highways from encroachment from the activities of markets, road-side trading, street hawking and alms begging;
- k) safeguarding school children through school children crossing and school site zones;
- l) safeguarding motor vehicles, motorcyclists, cyclists and pedestrians at railway level crossing;
- m) safeguarding vehicles and pedestrians in construction zones, highways and streets;
- n) co-operating with Local, National, International bodies, Agencies or groups engaged in road safety activities or in the prevention of accidents on the highways;
- o) entering into agreement with any person for the supply, construction, manufacture, maintenance or repair of any property whether moveable or immovable, which is necessary or appropriate for the purpose of the Authority;
- p) doing anything for the purpose of advancing the skill of persons employed by the Authority or the efficiency of the equipment of the Authority or the manner in which the equipment is operated including the provision of facilities for training, education and research.

Further, in exercise of the functions conferred on the authority, members of the authority shall have powers to arrest and prosecute persons reasonably suspected of having committed any of the offences specified the Schedule to the Law.¹⁴

Vehicle Inspection Service (VIS)

This is mostly known as Vehicle Inspection Officers (VIO) in Nigeria. In Nigeria, motor vehicle administration dates back to the colonial days with the coming of roads that linked the ports, regional capitals and other places of economic activities of the country.¹⁵ Before 1939, vehicle inspection was carried out by the directorate of works while motor licensing was carried out by the motor licensing officer under the Federal Ministry of Finance. During the Second World War, officers from the directorate of works were drafted from Nigeria to serve in the colonial regiment of England. Consequently, the Directorate of Work could no longer carry out the responsibilities of vehicle inspections.¹⁶ On 1st January, 1949, the Road Traffic Act was promulgated by the colonial administration. It was an Act to regulate and control vehicular traffic on the highways and the licensing of such vehicles and persons in charge as well as matters incidental thereto.

¹⁰ S. 10(4)(5)

¹¹ <[https://en.m.wikipedia.org/wiki/Lagos_State_Traffic_Management_\(LASTMA\)](https://en.m.wikipedia.org/wiki/Lagos_State_Traffic_Management_(LASTMA))>accessed on 29 April 2020

¹² *Ibid*

¹³ LASTMAL 2008, s. 14.

¹⁴ LASTMAL 2008, s. 15(1)

¹⁵ Directorate of Road Traffic Services.com <<http://drts.gov.ng/about-us/>>accessed on 29 April, 2020

¹⁶ *Ibid*

This in effect is motor vehicle administration. As a result of this development, the Inspector General of Police was mandated to undertake the responsibilities of vehicle inspection as well as driver licensing and enforcement of the traffic rules and regulations until 1958. Constitution of Nigeria conferred the powers on Regional Government to promulgate their own traffic laws.¹⁷ The promulgation of Road Traffic Act, on January 1, 1949, resulted in the establishment of Vehicle Inspection Officers (VIO) in all the regions. With the creation of states in 1967, each state's Ministry of Works established VIO Departments under the Directorate of Mechanical Engineering.¹⁸ The VIO is a State traffic regulation agency that ensures presence of sound vehicles on the road, that is, road worthiness of vehicles. The agency is a directorate of ministry of transportation. For example, in Lagos, the VIO Department was established under the state Ministry of Transportation and headed by the Chief VIO. Its core responsibilities include ensuring that all vehicles are properly inspected and certified before registration or renewal of vehicle particulars; public education and advocacy; effective patrols on roads and highway to carry out routine checks and enforce compliance; effective enforcement through vehicle impoundment and payment of fines to ensure compliance, among others. Others are ensuring that all vehicles are properly inspected and certified before registration or renewal of vehicle particulars, ensuring that vehicle inspection plazas are well distributed for easy access within the metropolis, collaborating with companies with large fleet for onsite vehicle inspection to ensure compliance using mobile vehicle inspection units and periodic training, retraining seminars and conferences for officers towards achievement of mastery in motor vehicle administration.

The Lagos State Road Traffic Law, Section 12¹⁹ provides for its functions thus:

- a) inspecting, controlling, regulating and enforcing the road worthiness of motor vehicles in the State;
- b) Pre-registration inspection of vehicles;
- c) Co-operating with other agencies to enforce traffic rules and regulations;
- d) Providing accessible emergency services;
- e) Co-operating with relevant agencies engaged in road safety activities or in the prevention of accidents on the highways;
- f) Inspection and issuance of Road Worthiness Certificate (RWC) in respect of all vehicles;
- g) Ensuring that all vehicles plying roads are road worthy at all times;
- h) Training and testing of applicants for driver's license;
- i) Training and testing of applicants for Rider's Card;
- j) Carrying out inspection and issuing report on accident vehicles in the State;
- k) Preparing and keeping statutory registers and a data base of all certificates issued and revoked.

National Emergency Management Agency of Nigeria (NEMA)

The National Emergency Management Agency of Nigeria (NEMA) is one of the road traffic agencies in Nigeria. This agency was established by the National Emergency Management (Establishment, etc) Act 1999.²⁰ The National Emergency Management Agency of Nigeria was established and assigned the responsibility of managing disasters, search and rescue in the country, including those disasters in the road transportation sector.²¹ Since when it was established, the NEMA has been working assiduously towards fighting disaster-related issues in the country through establishing concrete structures and realistic measures to tackle the problem of disaster in Nigeria. Some of these measures were to educate members of the public for the purpose of raising their level of awareness and also to reduce disaster effects in Nigeria.²²

Nigerian Police Force

The Nigerian Police Force (NPF) is the principal and the lead security agency in Nigeria.²³ The NPF is designated by the 1999 Constitution as a national police of Nigeria with exclusive jurisdiction throughout the country.²⁴ The NPF is divided into several departments among which include the traffic control department known as Traffic Warden Services. Under the Police Act, Section 59(1)²⁵ made provision for the establishment of the traffic warden service and goes further in subsection 6²⁶ to list its functions:

¹⁷*Ibid*

¹⁸*Ibid*

¹⁹ Lagos State Road Traffic Law 2012, s.12.

²⁰<<https://nema.gov.ng/>>accessed on April 1, 2020.

²¹*Ibid*.

²²*Ibid*.

²³<https://en.m.wikipedia.org/wiki/Nigeria_Police_Force> accessed on 29 April 2020

²⁴TI Odeyemi and AS Obiyan, 'Exploring the Subsidiarity Principle in Policing and the Operations of the Nigeria Police Force'(2008)27(1) *African Security Review Journal*<<http://10.1080/10246029.2017.1383924/>> accessed on 15th may 2020

²⁵Nigerian Police Force (establishment) Act 2020, S.59(1)

²⁶*Ibid*, s.59(6)

- a) General control and direction of motor traffic on the highway, b) Assisting pedestrians to cross the road, and c) Controlling vehicles stopping or parking in unauthorized places.

Furthermore, subsection 5²⁷ provides the power of traffic warden to control, regulate and enforce the law relating to road traffic.

Anambra State Road Traffic Management Agency

This is a road traffic agency operating in the State of Anambra. The agency was established by Anambra State Road Traffic Management Law 2015 to replace the ‘Anambra State Traffic Agency’ in managing traffic matters.²⁸ The Anambra State Road Traffic Management Law provided for the powers of the Agency as thus:²⁹

- a) Impound, remove and detain for a reasonable length of time as provided in the bye law, any vehicle causing or creating obstruction or congestion on the highways or is improperly stopped or parked on the highway or is driven on a road median or road verge or against traffic
- b) tow away and park impound vehicles in authorized parking places
- c) Impose and cause to be paid into the agency’s designated bank account such fines as are prescribed for specific violations contained in regulations made pursuant to this law
- d) Enter with the approval of the commissioner, into such contracts for the supply, construction, manufacture, maintenance or repair of any property either moveable or immovable as maybe necessary or expedient for giving effect to the provisions of this law
- e) Make with the approval of the commissioner, such regulations as maybe necessary for the purpose of this law
- f) Do anything for the purposes of advancing the skills of persons employed by the Agency

State Traffic Management Authority

The State Traffic Management Authority is another road traffic agency, the agency operations are basically within the states, it is a state-based road traffic agency established with the sole responsibility of developing a culture of regulation. It is saddled with the responsibility of controlling and managing traffic operations in states, and the traffic agency is expected to make sure that, it works to ensure hitch-free traffic flow within State road.³⁰ List of some State Traffic Management agencies as published by the Federal Road Safety Corps include:

- a. Kano Road and Traffic Agency (KAROTA)
- b. Lagos State Traffic Management Agency (LASTMA)
- c. Sokoto Traffic Marshals
- d. Delta State Traffic Management Authority (DESTMA)
- e. Kaduna State Traffic and Environmental Law Enforcement Agency (KASTELEA).
- f. Enugu State Traffic Management Agency (ESTMA). etc

3. Whether the Traffic Agencies Have Power to Prosecute, Convict and Punish Offenders

In the exercise of the functions conferred by section 10(4) of the Federal Road Safety Commission(Establishment) Act 2007,³¹ members of the Corps shall have power to arrest and prosecute persons responsible or suspected of having committed any traffic offence as listed in the section and serve such person with court processes or notice of offence sheet. By subsection 5,³²it provides that in the discharge of the function of the Corps by or under this Act and notwithstanding the provision of section 18(1) of this Act, a member of the Corps shall have power to-

- (a) arrest any person suspected of committing or having committed an offence under this Act;
- (b) remove and detain any vehicle which has been parked in a manner that causes an obstruction on a highway and the owner or driver of the vehicle shall pay a sum of N200.00 (Two Hundred Naira) for everyday or part thereof of such detention in addition to any other penalty which may have been prescribed under this Act; provided that if the driver or owner of the vehicle fails to reclaim such vehicle within six month of the date of its detention the Corps may apply to the high court for an order forfeiting the vehicle to the Corps which may thereafter dispose of the vehicle by public auction and deposit the proceeds of the sale in the Government Treasury.
- (c) endorse after conviction, any driving licence indicating the offence committed by its holder;
- (d) seize, when necessary, the driver’s licence of any person suspected to have committed an offence under this Act and the documents or particulars in respect of the vehicles by which the offence is committed or suspected to have been committed.

²⁷*Ibid*, s.59(5)

²⁸ s.2 Anambra State Road Traffic Management Law 2015

²⁹ ASRTM Law 2015, s.11(1)

³⁰EI Bello, ‘A Study of Urban Traffic Management: A Case Study of Lagos State Traffic Management Authority’ (2009)<<https://www.researchgate.net/publication/250357492/>>accessed on April 2 2020.

³¹ For LASTMA, their powers to prosecute and arrest traffic offenders are provided under Section 14 of the Lagos State Traffic Management Authority Law.

³²*Ibid* , s. 10(5)

- (e) Impound a vehicle suspected to have been stolen where the driver of the vehicle fail to produce a demand and to the satisfaction of the members of the Corps the particulars of such vehicles;
- (f) tow away and park such impounded vehicle in the premises of the Corps and promptly notify the Police of the matter for further investigation;
- (g) Declare an offender as wanted when he fails to report to answer charge against him;
- (h) Impound any vehicle by which the offender under this Act is reasonable suspected to have been committed; and
- (i) Arrest and prosecute an offender offering bribe to a member of the Corps or attempting to corrupt a Marshal on duty.

Taking a closer look at the sections, the words of the legislators are ‘members of the agency shall have power to arrest and prosecute person responsible or suspected of having committed any traffic offence including the following offences and serve such person with court processes or notice of offence sheet’.³³ This implies that the agency has no power to impose any penalty on a traffic offender, instead the enabling law gave them power to arrest and prosecute and not power to punish or impose any punishment on any offender. This is in consonance with the letters and spirit of our constitution that power should be distributed among the three arms of government as the Legislators has the power to make laws, the Executives has power to enforce those laws while the judiciary has the power to interpret the laws and to punish offenders. However, in our society we find out that these agencies have made themselves executors and judges as they impose fine on offenders and collect same without taking them to court.

It is also good to emphasize that by virtue of Section 10(4) of the FRSC Act, FRSC members have power to arrest and prosecute persons reasonably suspected of having committed any traffic offence and serve such person with notice of Offence sheet. Further, subsection (7) and (9) of section 10 of FRSC Act respectively states thus: ‘A person suspected of having committed an offence under this Act may be prosecuted in any Magistrates Court in the Federal Capital Territory, Abuja or the State within which the Offence is committed.’ ‘The Court convicting an offender may impose a term of imprisonment not exceeding six months in lieu of any penalties provided for in the second schedule to this Act’

Court decisions on whether the FRSC can impose penalty on offenders arising from high courts are at variance. The Federal High Court in Lagos has ruled that the Federal Road Safety Corps (FRSC) lacks the power to impose fines on erring motorists.³⁴ The court held in *Tope Alabi v Federal Road Safety Commission*,³⁵ that FRSC cannot turn itself into a court of law by punishing those who commit traffic offences. The court in that case declared sections 10(4) and 28(2) of the FRSC (Establishment) Act 2007 and Regulation 143 of the Nigerian Roads Traffic Regulation, 2011 null and void for being inconsistent with section 6 of the 1999 Constitution which vests judicial powers in the courts.³⁶ Arguing on the decision, Aghedo opined that FRSC in exercising its power, the power must be exercised in such cases civil in nature but not criminal.³⁷ In other words he is of the view that FRSC lacks power to try and punish traffic offenders. He further submitted wrongly that section 28(1) of FRSC Act empowers the FRSC to impose punishment of fine is inconsistent with the CFRN, 1999 (as amended) and thus a nullity. Section 36(2) of CFRN, 1999 only allows an administrative body like FRSC to adjudicate on matters arising from or affecting civil rights and obligations and not criminal. He said that FRSC not being a court of law cannot impose fines as it lacks power to conduct criminal trials.³⁸ Citing the case of *Sofekun v Akinyemi*³⁹ and *Ocean Steam Navigator Co v Stranachan*,⁴⁰ he further submitted that administrative body (FRSC is one) lacks power to adjudicate on criminal offences and prescribe punishment for such offences.⁴¹ The learned counsel prefers the Federal High Court decision in *Tope Alabi v FRSC* where Justice Tsoho held that FRSC not being a court lacks power to impose fines under the guise of issuance of notice of offence and that such power to impose fines amounts to usurpation of powers of the court. Propounding what appears to him as what ought to be the correct position of the law, the learned counsel is of the firm view that an offender should be charged to court instead of issuing notice of offence sheet. To him, the practice whereby FRSC issues notice of offence sheet, retains documents and impound vehicles amounts to imposition of fines.⁴²

³³*Ibid*, s.10(4)

³⁴<<https://www.pulse.ng/news/local/frsc-can-no-longer-fine-motorists-court-rules/yjnlrndn.amp/>> accessed on April 3, 2020.

³⁵*Alabi v FRSC* (2020) LPELR-51060 (CA)

³⁶*Ibid*.

³⁷Chioma Unini, ‘RE: The Federal Road Safety Commission Lack Legal Power to Criminally Punish Traffic Offenders’, (2016) <<https://thenigerialawyer.com/re-the-federal-road-safety-commission-lack-legal-power-to-criminally-punish-traffic-offenders-by-e-f-aghedo/>>accessed on 30 April 2020

³⁸*Ibid*

³⁹(1981) 1 NCLR 138

⁴⁰(1909) 214, US, 320

⁴¹Chioma Unini, ‘RE: The Federal Road Safety Commission....’

⁴² *Ibid*

With due respect to the learned counsel the decision in *Tope Alabi's case* is not the current position of the law in respect of the validity or otherwise. In *Bren Williams Nig.Ltd &Anor v FRSC*,⁴³ where the plaintiff challenged the powers of FRSC to arrest, issue notice of offence sheet and impound vehicles, the same Justice Tsoho held that FRSC Act did not contradict, and was not inconsistent with the provisions of the CFRN, 1999(as amended). The court further held that the agents (FRSC operatives) in the course of discharging their duties as spelt out in FRSC Act could not be said to have acted unconstitutionally. In another case of *Ezra Enwere v FRSC &Anor*⁴⁴ where the plaintiff challenged the lawful powers of FRSC to arrest any person reasonably suspected of having committed a traffic offence, the same court held that it cannot stop any official, whether public or private from carrying out its functions.

Similarly, the position of the law was made clearer in another case of *Joshua Oronto v FRSC*⁴⁵ where the plaintiff sought to enforce his fundamental right seeking a declaration that the impoundment of his vehicle and issuing of notice of offence sheet without recourse to court was unlawful, the same court dismissed him stating that he waived his right to be prosecuted after he had paid the prescribed fine for the offence which FRSC issued him notice of offence sheet. The Court of Appeal in recent decisions have affirmed the enforcement powers of FRSC and the sanctity of the notice of offence sheet as mere notice to the suspected offender which does not derogate from the powers of the court. In *FRSC v Gideon Okebu*⁴⁶ where the operational jurisdiction of FRSC was challenged, the court held that the notice of offence sheet was not made as a preliminary step to prosecution rather by its provisions/contents the suspected offender is advised to pay the fine prescribed by the law for the offence he committed or face a criminal charge. In another Court of Appeal case between *Anthony Esekhaigbe v FRSC*,⁴⁷ the court held that FRSC has power to impound any vehicle by which an offence, under the FRSC Act, was reasonably suspected to have been committed. Similarly, in *Moses Ediru v FRSC*⁴⁸, where the plaintiff challenged the powers of FRSC to issue him notice of offence sheet for seat belt violation and use of phone while driving, the court held that since he has paid the statutorily prescribed fines, he cannot turn around to accuse FRSC of acting *ultra vires* its powers and usurping the powers of the court. The issuance of notice of offence ticket by FRSC was not conclusive of imposition of fines and that at best it was a mere notification to either pay the fines or face prosecution. FRSC's power of enforcement was not usurpation of the powers of the court. FRSC's issuance of notice of offence sheet to suspected road traffic offenders did not constitute imposition of fines. Under the doctrine of *stare decisis*, lower courts are bound by the decision of higher courts. The operational jurisdiction of FRSC is within the precincts of the law for the safety of allroad users and in the overall national interest.⁴⁹ The Court of Appeal decisions remain the position of the law and override the variant decisions of the High Courts, including the decision in *Tope Alabi's case supra*.

However the point having been made, it should be noted that the provisions of the Lagos State and Enugu State Traffic Management Law, that expressly mandates or authorizes a traffic officer to impose fine negatives the settled position of the law that only a court of competent jurisdiction can try an offence and impose penalty. In this regard, Section 18(1) of the Lagos State Traffic Management Law and 11(1)(c) of the Anambra State Road Traffic Management Law that provides that 'any fine imposed on any person as set out in the Second Schedule to this Law shall be paid either on the spot where it is imposed by a Mobile Court or within twenty-four (24) hours where imposed by a Road Traffic Officer on highway patrol is therefore a nullity.'⁵⁰

4. Conclusion and Recommendations

The judicial powers are vested in the courts by virtue of section 6 of the Constitution of the Federal Republic of Nigeria, and since the imposition of fines is a judicial function only a court of competent jurisdiction has the power to impose fines after conviction. And by virtue of section 36 of the Constitution of Nigeria, traffic violators are entitled to fair hearing and that by imposition of fines, the traffic agencies acts in a judicial capacity contrary to the provisions of the constitution, and also by section 1(3) of the same Constitution, the provisions of some laws (Lagos and Anambra) mandating the traffic agencies is a nullity. The section of the traffic laws that expressly mandates or authorizes a traffic officer to impose fine negatives the settled position of the law that only a Court of competent jurisdiction can try an offence and impose penalty. This calls for an urgent amendment to the provision of such laws that toyed the path of inconsistency and neglect to the Court and the Constitution of the Federal Republic of Nigeria.

⁴³*Williams v FRSC* (Unreported) FHC/L/CS/436/09

⁴⁴*Ezra v FRSC* (Unreported) FCT/HC/CV/230/2014

⁴⁵*Joshua v FRSC*(Unreported) FHC/AK/CS/66/2014

⁴⁶*FRSC v Gideon* (2015) ALL FWLR (Pt. 803) 1774 at 1794

⁴⁷(2015) 12NWLR PT 1474 at p520-537

⁴⁸ (2016) 4NWLR PT 1502 at 209-247

⁴⁹ Chioma Unini, 'RE: The Federal Road Safety Commission....'

⁵⁰*Sofekun v Akinyemi, supra* note 40.