

APPRAISAL OF PUBLIC COMPLAINT COMMISSION AS AN OFFICIAL OMBUDSMAN IN NIGERIA *

Abstract

The role of the ombudsman in curtailing administrative abuse of powers in most countries of the world cannot be overemphasized. The Public Complaints Commission (PCC) was established in 1975 as an organ of the government set up to redress complaints lodged by aggrieved citizens or residents in Nigeria against administrative injustice. Despite this lofty structural vision, the lack of sufficient interest in the Commission by successful government, coupled with other systemic inefficiencies, has considerably undermined the efficacy of the Commission as a temple of justice in Nigeria. With the use of the doctrinal method, this study appraised the Public Complaints Commission as an official ombudsman in Nigeria. It was found that despite recording several achievements, the Commission is beset with challenges preventing it from performing optimally. These challenges include its limited administrative powers, lack of adequate resources, lack of true political independence, and so on. After a critical analysis of the duties and administrative efficacy of ombudsman in Nigeria, this study recommended, among others, that the Public Complaints Commission should be adequately funded to prevent the temptation of seeking external gratuities thereby rendering itself vulnerable to control and manipulation by external persons or groups.

Keywords: Public, Complaint, Commission, Ombudsman, Powers and Appointment

1. Introduction

The institution of the ombudsman owes its origin to the Scandinavian countries, particularly Sweden.¹ It was first established in Sweden in 1809. The other countries of the world were never aroused at that time to establish the institution until 1955 when Denmark instituted an ombudsman. The institution was confined to the Scandinavian countries until 1960 when it pervaded various parts of the world with almost every state striving to borrow a leaf from the Scandinavian countries.² The ombudsman was eventually established in Norway and then in New Zealand in 1962.³ Since then, the institution of the ombudsman has spread like wildfire across the globe including Nigeria,⁴ the United Kingdom, Russia, Mauritius, Guyana, Ghana, Tanzania, etc.⁵ This was a result of the new dimension to governance based on the principle of welfarism which emphasized that the end of government should be the welfare of the governed. This ensured that social welfare institutions were put in place to meet the needs of the general public.⁶

The Public Complaints Commission (PCC) is Nigeria's ombudsman. It is an organ of the government set up to redress complaints lodged by aggrieved citizens or residents in Nigeria against administrative injustice. It is charged with controlling administrative excesses (non-adherence to procedures or abuse of law). The primary function of the PCC is to provide impartial investigation on behalf of the complainants who feel aggrieved by the action or inaction of the government or local government or private companies.⁷ The purpose of this paper is to appraise the Public Complaints Commission as an official ombudsman in Nigeria. In the end, a comparative analysis is made between the Nigerian and the British ombudsmen.

* Emmanuel Nnaemeka Nwambam Esq, Department of Public and Private Law, Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State, Nigeria, nnaemekanwambam@gmail.com, 08069359809, **Charity Chinedu-Uhuo, Department of Public and Private Law, Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State, Nigeria, charityuhuo2@gmail.com, 07033543039.

¹MC Okany, *Nigerian Administrative Law* (Africana First Pub. Ltd, 2007) 404.

²CL Howard, *The Organizational Ombudsman: Origins, Roles, and Operations: A Legal Guide* (American Bar Association, 2010) 3.

³It is noteworthy that New Zealand was the first common law country to import the ombudsman system. See also B Thompson, *Constitutional and Administrative Law* (Blackstone Press Ltd, 1993) 327.

⁴This took place in 1974.

⁵MC Okany (n 1) 402.

⁶*Ibid.*, (n 1) 403.

⁷Public Complaints Commission, 'About Us', available at <<https://pcc.gov.ng/>>, accessed 27 November 2024.

2. The Concept of Ombudsman

Etymologically, the word ombudsman is a Swedish word rooted in the Old Norse term *umboðsmaðr*, essentially meaning 'representative'.⁸ The two components are '*Ombud*' meaning Commissioner or agent (deriving from the old Norse word '*Umboth*' meaning 'charge', 'Commission', 'administration by a delegacy')⁹ and *mathr*, corresponding with the English notion of 'man'.¹⁰ *Chambers 21st Century Dictionary*¹¹ defines an ombudsman as a man who investigates complaints and mediates fair settlement, especially between aggrieved parties such as consumers or students of an institution or organization; or, a government official, especially in Scandinavian countries, who investigates citizens' complaints against the government or its functionaries. According to Egwummuo, an ombudsman, ombuds, or public advocate is an official who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or a violation of rights.¹² An ombudsman has been similarly defined as a government official appointed to investigate citizens' complaints against government officials, large public and private corporations, and/or print or broadcast media; while, in general, ombudsmen have wide investigative powers, and they have only a few punitive powers.¹³

According to Iluyomade and Eka,¹⁴ the concept of the institution of ombudsman simply means that a citizen aggrieved by an official action or inaction has an opportunity to state his grievances to an independent person or persons empowered to investigate the complaint. Such a system ensures the citizens an impartial review of administrative decisions that appear to him unjust and protects them from injustice arising from abuse of power, neglect of duty, or error of judgment on the part of the people in authority. They further posit that the ombudsman system is a response to the question: How does one obtain an effective remedy for the refusal or negligence of the post office to allocate a new telephone line or the refusal or negligence of the electrical authorities to connect a new house to the main line or the refusal of the headmaster of a local school to register one's child in that particular school?¹⁵ It is undeniable that legal remedies may exist in the above situations but certain factors such as illiteracy, poverty, time, and the nature of the issue or complaint may restrain the complainant from utilizing these legal remedies. According to Okany:

It is true that one may utilize the various legal remedies to obtain a redress, but the issue may not be sufficiently significant to warrant the effort and the expense. Even if it is, the complainant may be so poor that he would not be able to prosecute the cause. He may prefer to see the matter reviewed and might not be interested in punishment or the apportionment of blame.¹⁶

To Leyland and Woods, the basic idea of an ombudsman can be stated simply: a complaint of maladministration from a relevant source is investigated by an official with appropriate powers, clearly independent of the administrative authorities.¹⁷ To Gilligan, however, the ombudsman has grown to occupy a meaningful place in the field of administrative and criminal justice not only as avenue that elucidates ongoing patterns of social injustice but as an institution that directly challenges the decisions and practices of government bodies.¹⁸ On his part, Malemi opines that an ombudsman, while carrying out its functions of peacefully and harmoniously resolving disputes between parties,

⁸H Wedgwood (ed.), *A Dictionary of English Etymology*, Vol. 1 (FB & C Ltd., 2017) 184.

⁹*Ombodh* comprises '*um*' - 'regarding' and '*bodh*' - 'command'. See *ibid*.

¹⁰*Ibid*.

¹¹M Robinson and G Davidson (eds.), *Chambers 21st Century Dictionary* (13th edn., Hodder & Stoughton, 2014) 247.

¹²JN Egwummuo, *Modern Trends in Administrative Law* (Rojoint Communications Services, 2000) 52.

¹³LC Reif, *The Ombudsman, Good Governance and the International Human Rights System* (Springer, 2013) 4.

¹⁴BO Iluyomade and BU Eka, *Cases and Materials on Administrative Law in Nigeria* (2nd edn., OAU Press Ltd., 1992) 455.

¹⁵*Ibid*. (n 14) 454.

¹⁶MC Okany (n 1) 404.

¹⁷PLeyland and T Woods, *Textbook on Administrative Law* (2nd edn.) (Blackstone Press Ltd., 1997) 48.

¹⁸E Gilligan, 'The Human Rights Ombudsman in Russia: The Evolution of Horizontal Accountability' [2010] *Human Rights*

relies heavily on and makes use of alternative dispute resolution skills, such as arbitration, mediation, and conciliation, etc.¹⁹ This is reasonably so because the ombudsman seems to possess the same features of speed, privacy, cheapness, less formality, etc. which alternative dispute resolution is generally known for when being compared to the conventional court system.

From the foregoing definitions, the following features are distillable as the common denominators of ombudsman:

- a. Independent of the government;
- b. Responsible for making sure that administrative practices and services of public bodies are fair, reasonable, appropriate and equitable; and
- c. Able to conduct confidential investigations that are non-threatening and protect complainants from retribution.²⁰

An ombudsman can, therefore, be said to be an independent and nonpartisan public agency provided for by law that receives and investigates complaints from members of the public and makes contact with the alleged wrongdoer to peacefully resolve and obtain remedy for the complainant. It is a body that gives citizens safeguards against maladministration by investigating and pursuing genuine claims of an aggrieved party with the relevant public or administrative authority, body, or person, whether it be a public or private body to find solutions to the issues raised.

3. Ombudsman in Nigeria: The Public Complaints Commission

3.1 Historical Development

One of the problems that have continued to plague the Nigerian civil service is the high-level display of inefficiency, disregard, and inexperience by the staff. Incompetent and non-diligent persons are placed to man public offices and the citizens ultimately suffer the consequences.²¹ This is because the absence of efficient and capable hands in public service weakens the quality of service rendered as it will invariably be very poor and unsatisfactory, leading to a lack of social justice and underdevelopment.²² This was the scenario that played out in post-independent Nigeria, especially around the south-western axis where the infamous 'Wild West' riots of 1968 resulted in the destruction of lives and property.²³ Consequently, the then State Military Government set up a judicial inquiry to find out what caused the grievances of the farmers who took part in the communal disturbance.²⁴ In his investigative report, Hon. Justice Olu Ayoola (as he then was, a judge of the then-Western State High Court) made the following recommendation:

Government should consider the possibility of appointing a public complaints Commissioner on the same basis as the parliamentary Commissioner in Britain (otherwise called 'ombudsman') whose duties would include the spotlighting of grievances, receipt of complaints of a public nature, the investigation of such complaints, and the recommendation of quick remedies to government.²⁵

¹⁹Public Complaints Commission, 'Charts' <<https://pcc.org.ng/charts/>> accessed 20 November 2024. See also E Malemi, *Administrative Law* (4th edn., Princeton Pub. Co., 2012) 313.

²⁰SI Afegbua and KD Adejuwon, 'Ombudsman and Ethical Dilemma in Nigerian Public Administration: From Rising Expectations to Dashed Hopes' [2015] *Review of Public Administration and Management* (3) (7) 98.

²¹These persons were employed either by virtue of the 'federal character' policy as provided under section 14 (3) & (4) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) or through favouritism, either way, the end-product is still the same: incompetence in public service. See B O Igwenyi, *The Crime of Corruption in Nigeria: Laws, Issues and Solutions* (Snaap Press Ltd., 2010) 92.

²²BA Inuwa, 'Corruption in the Public Sector: An Overview of Corruption in Nigeria Civil Service' [2021] *Lapai International Journal of Administration* (4) (1) 188.

²³Guardian Nigeria, 'History of Protests in Nigeria: Reactions and Consequences' (25 October 2020) available at <<https://guardian.ng/life/history-of-protests-in-nigeria-reactions-and-consequences-2/>>, accessed 28 October 2024.

²⁴*Ibid* (n 23).

²⁵Report of the Commission of Inquiry into the Civil Disturbances in the Western State of Nigeria, 1968, p. 113 (recommendation 5) Report of the Commission of Inquiry into the Civil Disturbances in the Western State of Nigeria, 1968 available at <<https://catalog-test.lib.uchicago.edu/vufind/Record/9839>>, accessed 29 October 2024. See also ziCyberAjizi, 'The Ombudsman (Public Complaints Commission)' <http://www.academia.edu/14172817/THE_OMBUDSMAN_PUBLIC_COMPLAIN_COMMISSION> accessed 13 November 2024.

This seemingly well-founded recommendation was rejected by the military government:

After giving very careful consideration to this recommendation, the government has not found itself able to accept it in the present circumstance. Apart from the question of the cost which would be involved in the establishment of the Public Complaints Commissioner, with his support staff... etc., the government considers that the implementation of the recommendation for the establishment of the local advisory committees will provide an appropriate forum for the ventilation of public grievances at the local level where they could be fully discussed with a view to finding appropriate remedies. All these will be in addition to the already existing avenues open to members of the public at large to air their grievances in respect of any government measures and seek redress.²⁶

The Biafra War (1967-1970) experience was indicative of a near collapse of constituted authority and arbitrary use of administrative powers within and outside public establishments. Government officials in authority wielded so much power and influence to their junior officers and members of the public. Several atrocities were being committed with impunity daily; the morale of the public service was at its lowest ebb.²⁷ With an increase in literacy level and more awareness of the existence of their rights, more and more citizens did not seem ready to suffer in silence and the demand for an avenue for public complaints reverberated through the whole nation.²⁸ This eventually prompted the Gowon-led Federal Military Government to set up the Civil Service Reform Panel²⁹ in 1972 headed by Chief Jerome Udoji.³⁰ At the end of its sessions, the panel proffered the following observations and recommendations:

In the course of our enquiry, a number of persons complained that they had suffered one form of injustice or another in the hands of public officers. How many such cases there have been that are never brought to light and in which aggrieved persons may have suffered years of agonizing frustration in silence may never be known. Although there are means open to citizens to seek redress of any genuine complaints about maladministration, many instances of dereliction of duty or abuse of office by public officers do not constitute criminal offence for which redress could be sought in a court of law. There is also the general problem of ignorance. Yet we are convinced that unless there is provided ample opportunity for the impartial investigation of such complaints, the integrity of government could be seriously undermined and public confidence adversely affected. We believe, therefore, that the need exists in Nigeria for the institution of an ombudsman. The concept of this institution is simply that a citizen aggrieved by an official action or inaction has an opportunity to state his grievances to an independent person or persons empowered to investigate the complaint. Such a system ensures for the citizen an impartial review of administrative decisions which appear to him unjust and protects him from injustice arising from abuse of power, neglect of duty, or errors of judgment on the part of people in authority.³¹

Meanwhile, when the Federal Military Government was still ruminating over whether or not to establish the ombudsman, the then North-Central State (now Kaduna and Katsina States), on 20 May 1974, picked up the gauntlet and established the first Public Complaints Commission in Nigeria known as 'Public Complaints Bureau'.³² This was done by virtue of the Public Complaints Bureau Edict 1974.³³ According to the Edict, an independent Commissioner was appointed to oversee the

²⁶O Ayoola, 'The Ayoola Tax Agitation Probe: Commission's Recommendations and Government Decision', available at <<http://resourcefinder.ids.ac.uk/Record/168132>>, accessed 11 November 2024; T Falola, *Counting the Tiger's Teeth: An African Teenager's Story* (University of Michigan Press, 2014) 239.

²⁷O Ohaegbu, 'Historical Background of the Public Complaints Commission in Nigeria' (16 February 2015) available at <<http://9jalegal.com.ng/articles/historical-background-of-the-public-complaints-commission-in-nigeria/>>, accessed 10 November 2024.

²⁸*Ibid* (n 27).

²⁹Also known as the 'Udoji Panel'.

³⁰O Ohaegbu (n 27).

³¹BO Iluyomade and BU Eka (n 14) 231-232.

³²Ohaegbu (n 27).

³³Edict No. 5 of 1974. Pursuant to its s. 3(1), the Bureau became effective from 1 April, 1974.

administration of the Bureau.³⁴ The military governor could only remove him from office on grounds of misconduct, neglect of duty, or disability.³⁵ As a result of the pioneering success of the system in the then North-Central State, Kwara State enacted its Public Complaints Bureau Edict in 1975³⁶ establishing the ombudsman system in its State. Subsequently (but in the same 1975), the Federal Military Government established an ombudsman³⁷ for Nigeria known as the 'Public Complaints Commission'.³⁸ The Commission was designed to check the pervasive incidence of administrative arbitrariness and injustice and to fill the gap in our system of administrative justice arising from the inadequacy or inapplicability of the traditional investigation and adjudicatory processes.³⁹ It was also charged with the duty to receive and investigate complaints from the people against administrative irregularities and malpractices at both federal and state levels.⁴⁰ With the enthronement of civil rule in 1999, the Commission was retained via the Public Complaints Commission Act⁴¹ and vested with powers to inquire into complaints by members of the public concerning the administrative action of any public authority, corporation, body, or their officials, and other matters ancillary thereto.⁴² By Section 1(1) of the Act, the Commission shall have a Chief Commissioner as its head with such number of Commissioners as the National Assembly may determine. The Commission is empowered under Section 1(2) to establish such number of branches of the Commission in the States as the National Assembly may determine.

The Nigerian ombudsman, therefore, owes its existence to the need to check bureaucratic incompetence and abuse of power and office.⁴³ In an outlined form, the following form the reasons for the establishment of the ombudsman in Nigeria:

- a. Abuse of power by public authorities and private bodies and lack of adequate control of these bodies;
- b. Lack of internal administrative remedies or check devices to justly deal with all complaints of aggrieved citizens;
- c. High cost of litigation and the consequent loss of interest by parties as a result of cumbersome, slow, and strict adherence to judicial technicalities;
- d. Absence of any law criminalizing or making public officers liable for abuse of offices, dereliction of duties, actions, or inactions occasioning injury to ordinary citizens;
- e. Lack of a prescribed *modus operandi* in the laws or instruments investing public officers with discretionary powers for the exercise of such discretion, hence the need to compel public officers to exercise such discretion for public interests;
- f. The need for people who were aggrieved by the official conduct of administrators to feel that someone cared about their grievances;
- g. Ignorance of the citizens of the established legal channels for ventilating grievances; and
- h. The need to ensure effective protection of the rights and interests of the citizens.⁴⁴

³⁴Public Complaints Bureau Edict 1974, ss. 3(2) and 9(2).

³⁵*Ibid.* s. 4(1)-(3).

³⁶Edict No. 12 of 1975.

³⁷This is made pursuant to the Public Complaints Commission Decree 31 of 1975.

³⁸Hereinafter known as 'the Commission'.

³⁹These include the Courts and the Commissions of Enquiry. See B O Nwabueze, *Military Rule and Constitutionalism in Nigeria* (Spectrum Law Pub., 1992) 161.

⁴⁰Okany (n 1) 408.

⁴¹Cap. P37, LFN 2004.

⁴²Malemi (n 19) 320.

⁴³*Ibid.*

⁴⁴*Ibid.*, 314-315.

An active ombudsman is expected to make public officers cautious that their official acts could become the subject of inquiry in the near future. This will, no doubt, ensure that people exercising authority do that in utmost good faith and with every sense of decency and civilization. Administrative conduct will be more humane and the exercise of discretion done with every sense of civility.⁴⁵

3.2 Appointment of Commissioners

The Chief Commissioner and other Commissioners are appointed by the National Assembly amongst persons of proven integrity who possess other qualifications as the National Assembly may determine. No Commissioner stays in office for more than six years. This is because Section 2(2) provides that a Commissioner shall hold office for a term of three years in the first instance and shall be eligible for re-appointment for a second term of three years only after which he stands disqualified for another re-appointment. Unlike the former North-Central State Commissioner who could only be removed from office on account of neglect of duty, misconduct, or disability, a Commissioner under the Act could be removed from office at any time by the National Assembly without giving any reason.⁴⁶ This is a serious flaw because, without the security of tenure of office, the Commissioners cannot be expected to give their best services to the Commission and the nation. Regarding this situation, Emiola commented:

This is not a particularly healthy situation. It is true that under a democratic government, it is unthinkable to conceive of a situation whereby the legislature would just decide to remove a Commissioner against whom no allegation of impropriety or inadequacy of one kind or another has been made. We are, however, concerned here with the law, and a pious assumption of what might not happen in the future is better left to political scientists.⁴⁷

In furtherance of the purposes of the Commission, the Act provides for the appointment of a Chief Commissioner and other Commissioners by the National Assembly.⁴⁸ They are empowered to investigate either on their initiative or following complaints lodged before them by any other person, any administrative action taken by some specified governments agencies or private bodies.⁴⁹ The Chief Commissioner may determine the manner by which complaints are to be lodged.⁵⁰ The powers of the Commissioner and his *modus operandi* are encapsulated in Sections 5, 6 and 7 of the Act.

In the discharge of his functions under the Act, a Commissioner shall have power to summon in writing any person who in the opinion of the Commissioner 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 shall be guilty of an offence under this Act.⁵¹ No Commissioner shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under or pursuant to the Act.⁵²

3.3 Powers and Functions of the Commission

Under section 5(1) of the Act, all Commissioners shall be responsible to the National Assembly but the Chief Commissioner shall be responsible for co-coordinating the work of all other Commissioners. Section 5(2) provides that a Commissioner shall have the power to investigate either on his initiative or following complaints lodged before him by any other person, any administrative

⁴⁵Malemi (n 19) 314-315.

⁴⁶Public Complaints Commission Act, s. 2(3).

⁴⁷A. Emiola, *Remedies in Administrative Law* (Emiola Publishers Ltd., 2000) 97.

⁴⁸Public Complaints Commission Act, s. 2.

⁴⁹*Ibid.*, s. 5(2).

⁵⁰*Ibid.*, s. 5(2)(a).

⁵¹*Ibid.*, s. 9(1).

⁵²*Ibid.*, s. 10.

action taken by:

- (a) any department or ministry of the federal or any state government;
- (b) any department of any local government authority (howsoever designed) set up in any state in the federation;
- (c) any statutory corporation or public institution set up by any government in Nigeria;
- (d) any company incorporated under or pursuant to the Companies and Allied Matters Act whether owned by any government or by private individuals in Nigeria or otherwise howsoever; or
- (e) any officer or servant of any of the aforementioned bodies.

The Act also grants the Chief Commissioner the latitude to determine the manner by which complaints are to be lodged.⁵³ A Commissioner also has the discretion to decide whether, and if so, how he should notify the public of his action, or intended action in any particular case.⁵⁴ He is also free to access all information necessary for the efficient performance of his duties under the Act; thus, he is free to visit and inspect any premises belonging to any person, or body mentioned in Section 5(2) of the Act.⁵⁵

The Act mandates every Commissioner to ensure that administrative action by any person or body mentioned in subsection (2) will not result in the commitment of any act of injustice against any citizen of Nigeria, or any other person resident in Nigeria.⁵⁶ For that purpose, he is required to investigate administrative acts which are, or appear to be contrary to any law or regulation; mistaken in law, or arbitrary in the ascertainment of fact; unreasonable, unfair, oppressive, or inconsistent with the general functions of administrative organs; improper in motivation, or based on irrelevant considerations; unclear, or inadequately explained; otherwise objectionable.⁵⁷ A Commissioner is also competent to investigate administrative procedures of any court of law in Nigeria.⁵⁸

The Act holds confidentiality in high regard. Thus, Commissioners as well as the staff of the Commission are to maintain secrecy, in respect of matters so designated because of source, or content. The Commissioner may, however, in any report made by him, disclose such matters as in his opinion ought to be disclosed to establish grounds for his conclusions and recommendations.⁵⁹

To avoid political or other forms of external influence in the exercise of his duties, the Commissioner shall not be subject to the direction, or control of any other person or authority.⁶⁰

3.4 Methods of Lodging Complaints to the Commission

The manner of lodging a complaint with the Commission may be determined by the Chief Commissioner.⁶¹ However, in practice, complaints are usually made through oral report; delivery of report by hand; delivery of report by post; transmission of the report by other means of communication such as telephone, mail, etc.⁶²

The Public Complaints Commission has the power to investigate complaints against public authorities, private bodies, and individuals. For example, complaints commonly received by the Commission from members of the public fell under a range of categories, including non-payment of gratuities and pensions; compulsory acquisition of lands and houses without adequate or delayed

⁵³Public Complaints Commission Act, s. 5(3)(a).

⁵⁴*Ibid.*, s. 5(3)(b).

⁵⁵*Ibid.*, s. 5(3)(c).

⁵⁶*Ibid.*, s. 5(3).

⁵⁷*Ibid.*, s. 5(3)(d).

⁵⁸*Ibid.*, s. 5(3)(e).

⁵⁹*Ibid.*, s. 5(5).

⁶⁰*Ibid.*, s. 5(6).

⁶¹Public Complaints Commission Act, s. 35.

⁶²AE. Egberi and JT Ikyase, 'Public Complaints Commission and the Administration of Justice in the Local Government System in Nigeria' [2024] *International Journal of Development Strategies in Humanities, Management and Social Sciences* (14) (1) 399.

compensations; illegal termination of appointments both by public and private employers; unpaid and delayed wages; delay of action by the police and alleged collusion or contributory negligence on the part of the police; illegal demolition of buildings; delay in approval of building plans by the town planning authorities; loss of registered parcels through the post telecommunications; chieftaincy matters; non-payment of insurance claims; refusal to pay debts over for services rendered; delayed payment of professional fees; denial of retirement benefits; refusal to grant study leave with or without pay; refusal to grant transfer of service; etc.⁶³

3.5 Limitations of the Commission's Powers

Despite the latitude of powers vested in the Commissioner, there are still restrictions, which are aimed at preventing maladministration or abuse of office. By Section 6(1), the Commissioner shall not investigate any matter:

- a. That is clearly outside his terms of reference;
- b. That is pending before the National Assembly, the National Council of State, or the National Council of Ministers;
- c. That is pending before any court of law in Nigeria;
- d. That is related to anything done or purported to be done in respect of any member of the Armed Forces or the Nigeria Police Force under the Armed Forces Act or the Police Act, as the case may be;⁶⁴
- e. In which the complainant has not, in the opinion of the Commissioner, exhausted all available legal or administrative procedures;⁶⁵
- f. Relating to any act or thing done before 29 July 1975 or in respect of which the complaint is lodged later than 12 (twelve) months after the date of the act or thing done from which the complaint arose;⁶⁶
- g. In which the complainant has no personal interest.⁶⁷

With regards to matters pending before any of the quasi-judicial bodies mentioned in section 6(1)(b), the Act requires a notice signed by the Secretary to the Federal Government and addressed to the Commission certifying that any matter pending before any of the bodies mentioned in the paragraph shall be conclusive as to the pendency of the matter.⁶⁸ Furthermore, in every case where a Commissioner decides not to investigate a complaint, he shall state the reason for not doing so.⁶⁹ After due investigation of any complaint, a Commissioner may recommend to the appropriate person or responsible administrative agencies any of the following:

- a. further consideration of the matter;

⁶³Malemi (n 19) 318.

⁶⁴It seems that this provision does not prohibit the investigation of cases concerning members of these forces against private persons in their individual capacity. Individual members who violate the rights of others are excluded from this rule.

⁶⁵What this provision is saying is that where it is possible to appeal or seek judicial review, this must be done before complaining to the Commissioner, except: (a) where harm or injury would result if one tries to comply with the Act; or (b) where the person complained against is the person in control of the machinery for justice for which he will most likely employ against the complainant. See *Garba v. University of Maiduguri* (1986) 1NWLR (pt. 18) 550 (SC) where, in an action for the enforcement of fundamental rights over unlawful expulsion, the court held that there was no need for the complaining students to have first exhausted all internal administrative procedures because they would still meet the same people complained against, who at any rate would not give them justice.

⁶⁶It has not been possible for the Commission to observe this one-year limitation period. This is because the requirement of exhaustion of internal administrative and legal remedies would not be met if the limitation period is strictly followed due to the delay that bedevils the court system and the red-tapism rife in the civil service. See *Inuwa* (n 22) 191.

⁶⁷It is unfortunate that such a *pro-locus standi* provision is still rearing out its head in this Act. The essence of establishing the ombudsman institution in Nigeria is to do away with the primitive and technical characteristics, such as *locus standi*, which has rendered the court system undesirable for many. Thankfully, the new position of law in Nigeria has abolished *locus standi*.

⁶⁸Public Complaints Commission Act, s. 6(2).

⁶⁹*Ibid.*, s. 6(3).

- b. a modification or cancellation of the offending administrative or other act;
- c. an alteration of a regulation or ruling; and
- d. full reasons behind a particular administrative or other act.⁷⁰

The Commissioner may, where he deems appropriate, refer cases where he feels that existing laws are inadequate to the National Assembly, the appropriate Governor, or any other appropriate body or persons.⁷¹ Where he discovers a crime, he shall report his discovery to the appropriate authority or recommend the suspect for prosecution.⁷²

3.6 Offences and Penalties

According to Section 8(1) of the Act, it is an offence punishable by ₦ 500 or imprisonment for 6 months or both such fine and imprisonment for any person except the Commissioner to make public any complaint lodged before the Commission. The same punishment awaits any person required to furnish information under the Act and who fails to do so or knowingly or recklessly makes any false statement in any material particular to the Commission in purported compliance with the requirement to furnish information.⁷³ Willful obstruction, interference with, assault, or resistance to any Commissioner or any other officer or servant of the Commission in the execution of his duties under the Act will likewise be punished upon conviction. The Commissioner also has the power to summon in writing any person who, in his opinion, has any evidence to give on any matter before him.⁷⁴ Failure to appear is an offence punishable upon conviction by a fine of ₦ 500 or imprisonment for six months.⁷⁵

3.7 Immunity from Legal Process

For a Commissioner to freely operate without fear or favour, Section 10(1) of the Act provides that no Commissioner shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under the Act. Reports, statements, or other communications or records of any meeting, investigation, or proceedings made by a Commissioner, officer, or servant in the due exercise of his functions under the Act shall be privileged. Its production may, therefore, not be compelled in any legal proceeding if the Attorney-General certifies that such production is not in the public interest.⁷⁶

4. Efficacy of the Public Complaints Commission

The Public Complaints Commission has recorded some achievements since its inception in 1975. According to the statistics by Ezeani,⁷⁷ 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, 9,864 cases were received by the Commission nationwide of which 4,036 cases were satisfactorily resolved, while 5,828 were pending. Subsequently, in 1997, the Commission received a total of 9,567 cases, of which 3,918 cases were satisfactorily settled, while a total of 5,619 were pending. The

⁷⁰*Ibid.*, s. 7(1)

⁷¹*Ibid.*, s. 7(2).

⁷²*Ibid.*, s. 7(3).

⁷³*Ibid.*, s. 8(2).

⁷⁴Public Complaints Commission Act, s. 9(1).

⁷⁵*Ibid.*, s. 9(2).

⁷⁶*Ibid.*, s. 10(2).

⁷⁷EO Ezeani, 'The Ombudsman and Administrative Responsibility: As Appraisal of the Public Complaints Commission of Nigeria' [2003] *Nigerian Journal of Social Sciences* (2) (2) 49-50.

following year (1998), 9,452 cases were received of which 3,552 were satisfactorily settled, pending 5,900 cases. Furthermore, in the year 1999, a total of 11,147 cases were received of which 5,143 were satisfactorily resolved, remaining 6,004 pending cases. The next year (2000), the Commission received a total of 11,832 cases, 5,283 were resolved with 6,549 pending cases. Similarly, the achievements of the Commission were also recorded in the Judicial Appointments and Conduct Ombudsman Annual Report (2014-2015, 2015-2016). It was revealed that from April 2014 to March 2015, the commission received about 1,903 complaints on contracts and pension cases, of which 576 were satisfactorily resolved while the rest were either partially resolved or unresolved. As of July 2016, the Commission confirmed that it resolved 23,246 cases out of the nationwide 38,108 complaints brought before the Commission.⁷⁸

According to the statistics obtained from its website,⁷⁹ the Commission received and addressed a total of 953 complaints and inquiries from 2022 to 2023 on appointment-related cases.⁸⁰ Between 2015 and 2021, the Commission received 209,745 cases and resolved 87,461, while 122,284 cases are still pending.⁸¹ In 2023, a total of 165 cases were received against the public sector in Osun State charts.⁸² To improve its efficacy in public service, the Public Complaints Commission introduced an external appraisal system in 2014 as a measure to address the allegations of poor service delivery, corruption and inefficiency leveled against it.⁸³ This type of appraisal is carried out by individuals who are not affiliated with the organization for which it is intended. It is an evaluation of an organization's or employee's performance by the general public or the organization's clientele. Giving a client the chance to evaluate an organization's overall performance as well as the performance of its workers is known as external appraisal. Customers of an employer's or organization's services might offer a unique perspective on job performance.⁸⁴ Even while the client's objectives might not be entirely in line with the organization's, the information they offer can be highly helpful for personnel choices on things like training needs, transfers, and promotions.⁸⁵

In the Commission's external appraisal method, Case Summary Assessment Forms (CSAF) are provided to clients to evaluate how well the organization handles their cases and meets their needs.⁸⁶ Following the Commission's mandate, the CSAF is used to gather information from PCC clients or customers (aggrieved individuals seeking redress) regarding the organization's performance in the overall process of resolving their complaints. The external assessment report form was added to the PCC appraisal system after persistent claims of bribery, corruption, and delays in addressing consumer complaints.⁸⁷ However, the Commission has been accused so persistently of low performance that in 2014, the management introduced an external appraisal system to monitor the activities of the Commission for improved performance. 10 years later, the pertinent question is whether this introduction has improved the performance of the Commission, especially regarding the investigation of cases. Statistics by Ussain, Ibeme, and Okoko⁸⁸ on the performance of the Commission between 2014 and 2019 shows that in 5 out of the 6-year period of the study, none of the

⁷⁸*Ibid.*

⁷⁹Public Complaints Commission, 'Knowledge Base' <<https://pcc.org.ng/jsst-knowledgebase>> accessed 8 November 2024.

⁸⁰*Ibid.*

⁸¹T Oguntola, 'We Resolve 10,000 Cases Yearly – Complaints Commission' (30 July 2022) <https://leadership.ng/we-resolve-10000-cases-yearly-complaints-Commission/#google_vignette> accessed 8 November 2024.

⁸²Public Complaints Commission (n 79).

⁸³HT Ussain, PN Ibeme and CO Okoko, 'Effects of External Appraisal on Public Complaints Commission Investigation of Cases' [2023] *Evangel International Journal of Arts and Social Sciences* (3) 3.

⁸⁴OC Onyije, 'Effect of Performance Appraisal on Employee Productivity in a Nigerian University' [2015] *Journal of Economics & Business Research* (11) (2) 39.

⁸⁵*Ibid.*

⁸⁶Agency Report, 'ICPC Blames Civil Servants for Endemic Corruption' (28 June 2018) <<https://independent.ng/icpc-blames-civil-servants-for-endemic-corruption/>> accessed 30 November 2024.

⁸⁷Ussain, Ibeme and Okoko (n 83) 3.

⁸⁸*Ibid.*, 10.

cases brought before the PCC was resolved within the expected time frame. It was only in 2016 that more cases brought before the Commissions were resolved within the expected time frame. In the other 5 years, the resolved cases outside the expected time frame overshoot the resolved cases within the expected time frame by 478 cases which is 63.44%. However, given this wide disparity, it stands to reason that the use of external appraisal by the PCC did not result in a speedy investigation of public complaints during the period of this study; the solitary exception being in the year 2016.⁸⁹

Despite its achievements, the Public Complaints Commission is not meeting its performance expectations at an optimal standard. Over the years, the Commission has been plagued by several challenges that continue to adversely affect its role as an instrument for checking unethical practices in public service.⁹⁰ Some reasons for the Commission's perceived ineffectiveness include:

- a. **Lack of Independence:** Despite the various statutory provisions of the Public Complaints Act geared towards securing the independence of the Commission, the reputation of the Commission as a public complaints body has been significantly eroded due to the incessant interference by power-wielding individuals and corporations lobbying to protect their interest in a given matter. The activities of the Commission have proven to not be truly independent of government interference, which in turn affects the performance of the system.⁹¹
- b. **Lack of Legal Punitive Capacity:** The Public Service Commission's inability to execute its ruling is another significant barrier to its ability to carry out its mandate. After investing time, money, and material resources, as well as experience and intellectual resources, in a good complaint, the Commission's ruling is simply filed away without being implemented.
- c. **Inadequate Publicity:** Indeed, the challenge of poor and inadequate publicity affects the ombudsman's operations. The people for whom the Public Complaints Commission was established are not fully aware of the free and quick services of the Commission. The major work of the ombudsman is to serve as an agent for redress against arbitrary governments or administrative actions. This could only be achieved if the public is fully aware of the activities of the ombudsman.⁹² Presently, the ombudsman is important in the Nigerian public service. This is because the ombudsman plays a major role in curbing corruption, safeguarding human rights, and assisting citizens to get redress in cases of maladministration by government officials.⁹³
- d. **Insufficient Funding:** Lack of adequate funds also hinders the Commission from functioning effectively. Without adequate resources, the Commission is unable to investigate and address other issues material to the resolution of the issues brought within its purview. Furthermore, funds are also needed to create awareness about their function and the establishment of offices at every local government headquarters as well as resolve all the complaints brought to them.⁹⁴

⁸⁹ *Ibid.*

⁹⁰ A Ayo and O Anthony, 'An assessment of the cases of ombudsman as a tool for Accountability in Nigeria' [2011] *Journal of Sustainable Development in Africa* (13) (4) 61-71.

⁹¹ KO Osakede and S O Ijimakinwa, 'The Role of Ombudsman as a means of Citizen Redress in Nigeria' [2014] *Review of Public Administration and Management* (3) (6) 47.

⁹² LB Hill, 'The Ombudsman Revisited: Thirty Years of Hawaiian Experience' [2002] *Public Administration Review* (24) 72.

⁹³ EJ Ebiziem and C J Amadi, 'Appraisal of Ombudsman in Nigeria: Operations, Benefits and Challenges' [2015] *International Journal of Advanced Academic Research - Social Sciences and Education* (1) (2) 62

⁹⁴ C Asadu, 'Public Complaints Commission resolved 'only 41% of cases' in 4 years' (20 December 2019) <<https://www.thecable.ng/public-complaints-Commission-resolved-only-41-of-cases-in-4-years/>> accessed 11 November 2024; Premium Times Nigeria, 'We've no money to work – Public Complaints Commission' (9 August 2019) <<https://www.premiumtimesng.com/news/more-news/279581-weve-no-money-to-work-public-complaints-Commission.html?tztc=1>> accessed 9 November 2024.

- e. Recalcitrant attitude of government ministries, departments, and agencies: The attitude of many Nigerian civil servants to work is abysmally terrible. They believe the government is an abstraction with a non-permanent leadership. Therefore, government work does not deserve their dedication and accountability.⁹⁵ This indolence epidemic has negatively impacted the efficiency of the civil service, including the Public Complaints Commission.

5. Conclusion

It is undeniable that the ombudsman, irrespective of nomenclature or the clime where it operates, is a watchdog for social justice. In Nigeria, the Public Complaints Commission (PCC) is mired in a series of troubles hindering its optimal performance as a bastion of justice. The level of public awareness about the body is considerably low, especially due to the privacy policy with which it operates. This has resulted in the conclusion that Nigeria's ombudsman, the Public Complaints Commission (PCC), is practically ineffective. Furthermore, in many developing countries, Nigeria inclusive, corruption is so pervasive in Nigeria that it may be considered rather a way of life and is accepted as a part of social, economic, political, and administrative cultures and values.

In some of these countries, key politicians and top bureaucrats are corrupt to the backbone and rotten to the core. If the Nigerian ombudsman is expected to deal with corruption, chances are that it will fail in varying degrees. The corrupt individuals' vital interests will be adversely affected and they will fight back tooth and nail, marginalizing the ombudsman's significance and importance and trying to discredit them. The ombudsman also will not receive their cooperation in performing other duties or responsibilities.⁹⁶ Moreover, the investigation of corruption requires special techniques and tools, considerable financial and human resources, and an enormous amount of time and effort. In many developing countries, such as Nigeria, the governments pay lip service to the significance of this office, thus, necessary support and adequate financial provisions are lacking.

The ombudsman in Nigeria also lacks support and resources to deal with a wide variety of issues like political and bureaucratic corruption. It should also be noted that the ombudsman approach is, in fact, a different and unique type of grievance management approach. The ombudsman is a facilitator whose principal tool or approach is persuasion or mediation.⁹⁷ It avoids a confrontational or adversarial relationship with the bureaucracy. Thus, it is an alternative strategy for grievance management. As indicated above, she does not have the power to impose sanctions, reverse or quash administrative policy, or order any official to that effect. The ombudsman whose most potent weapon is an expression of her opinion heavily relies upon criticism and publicity rather than quashing of decision.

In view of the foregoing, it is therefore, recommended that:

- (i) Nigeria should strengthen and increase the frontiers of powers of the ombudsman to deal with political and/or bureaucratic corruption. This includes strong and effective prosecutorial powers.
- (ii) The monetary penalty in Section 8 of the Public Complaints Commission (PCC) Act should be upgraded to reflect the current economic reality vis-à-vis the Naira value.

⁹⁵EO Frank, 'Government and Accountability in Nigeria: The Theoretical Linkage' [2022] *Ibom Journal of Social Issues* (11) (1) 42.

⁹⁶ N Abedin, 'What should be the Primary Focus of the Ombudsman Institution? Protecting Human Rights and Redressing Public Grievances Versus Fighting Corruption: Emphasis on South Asia and the Commonwealth Caribbean' [2004] *The International Ombudsman Yearbook* (1) 156.

⁹⁷T Agarah, 'The Ombudsman System in Nigeria: An Assessment' [1989] *Indian Journal of Public Administration* (35) (1) 125-137.

- (iii) The *locus standi* provision in section 6(1) (g) of the PCC Act should be removed so that personal interest will not be a condition for bringing a complaint before the Commission.
- (iv) The one-year limitation period within which to lay a complaint before the Nigerian ombudsman is rather too short because the complainant ought to have first exhausted other legal remedies before coming to the Commission for succor. It should be increased to two years or more.
- (v) There should be true independence of the Commission as a civil institution to prevent constant control and interference from the government which undermines the efficiency of the Commission as an ombudsman.
- (vi) As a corollary to the previous recommendation, adequate funds should be disbursed to the Commission for its running. This is crucial in the quest for the Commission's true independence as its staff will not be easily snared by bribes or other forms of administrative corruption.
- (vii) There should be increased public awareness about the existence of the Commission. Even among literate Nigerians, awareness about the Commission is still at the lowest ebb. This will increase the quantity of complaints received, reactivate the Commission, and ultimately make the government and its agencies more effectively in carrying out their established functions for the development of the society.