

**THE EFFICACY OF ADMINISTRATIVE TRIBUNAL IN LOCAL GOVERNMENT
SYSTEM UNDER THE 1999 CONSTITUTION AS AMENDED**

SUBMITTED

BY

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TITLE PAGE

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DECLARATION

I, Elem Emmanuel Eledalachi (2020/LW/12786), declare that this dissertation, *'The Efficacy of Administrative Tribunal in Local Government System under the 1999 Constitution as Amended'*, is my original work, submitted for Bachelor of Laws (LL.B) at Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State. Unless otherwise cited, all content is my own and has not been previously submitted elsewhere. All sources are acknowledged, and no material infringes on others' rights. I take full responsibility for this work.

Signed:

Elem Emmanuel Eledalachi
(2020/LW/12786)

Date: September, 2025

CERTIFICATION

We certify that this dissertation, titled '*The Efficacy of Administrative Tribunal in Local Government System under the 1999 Constitution as Amended*', by Elem Emmanuel Eledalachi (2020/LW/12786), submitted for the degree of Bachelor of Laws (LL.B) at Alex Ekwueme Federal University, Ndufu-Alike, Ebonyi State, has been supervised, examined, and found satisfactory.

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DEDICATION

I dedicate this project to my lovely mother, Ezinne Agnese Nwakaego

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CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The pervasiveness of the phrase ‘Go to Court’ in Nigeria's administrative dispute landscape belies a profound crisis of trust in the country's judicial system¹. As a result, the potential of administrative tribunals to provide a fair, efficient, and inexpensive means of resolving disputes between citizens and government agencies remains unrealized. Be that as it may, the concept of administrative tribunals has been a vital component of administrative justice systems worldwide, including Nigeria². These tribunals were established to provide an alternative dispute resolution mechanism for reviewing decisions made by local government authorities. According to Okene, ‘administrative tribunals are designed to provide a quick and inexpensive means of resolving disputes between citizens and government agencies.’³ However, despite their potential, administrative tribunals in Nigeria have faced numerous challenges, which have impacted their efficacy in reviewing local government decisions⁴. These challenges include inadequate funding, lack of independence, and limited jurisdiction, among others.

One of the primary concerns surrounding administrative tribunals in Nigeria is the paradox of bureaucratic discretion. While these tribunals were established to provide a check on the discretionary powers of local government authorities, they have often been criticized for

¹ John Okwoeze Odey, *Go to Court: The Dilemma of a Nation under Judicial Siege* (Directorate of Communication, Alpha Citizens’ Advocate Press, 2023).

² Adeogun Abiola, ‘Administrative Tribunals in Nigeria: A Critical Analysis’. *Journal of Law and Policy* [2017] (12) (1) 123-145.

³ Okene Emmanuel, *Administrative Justice in Nigeria* (Lagos: Malthouse Press, 2013) 156.

⁴ Ojo Emmanuel Olusegun, ‘The Challenges of Administrative Tribunals in Nigeria’. *Journal of Public Administration and Policy Research* [2019] (11) (2) 201-215.

perpetuating the same bureaucratic discretion they were intended to curb⁵. This has led to concerns about the legitimacy and fairness of the decisions made by these tribunals. According to Ibhawoh, ‘the paradox of bureaucratic discretion is a major challenge facing administrative tribunals in Nigeria, as it undermines their ability to provide a fair and impartial review of government decisions.’⁶ The paradox of bureaucratic discretion is further complicated by the fact that administrative tribunals in Nigeria often lack the independence and impartiality necessary to make decisions that are free from bias and influence⁷.

Furthermore, the judicial review process in Nigeria has also been criticized for its limitations in reviewing decisions made by local government authorities. The courts have often been reluctant to interfere with the discretionary powers of local government authorities, citing the doctrine of separation of powers⁸. However, this has led to concerns about the lack of accountability and transparency in local government decision-making. According to Afolabi, ‘the judicial review process in Nigeria is often slow and cumbersome, which can lead to delays and frustration for citizens seeking to challenge decisions made by local government authorities.’⁹

The concept of administrative justice is also critical to understanding the efficacy of administrative tribunals in reviewing local government decisions. Administrative justice emphasizes the importance of fairness, transparency, and accountability in administrative

⁵ Adebayo Ademola, *Administrative Law in Nigeria* (Lagos: Malthouse Press, 2015) 189.

⁶Ibhawoh Bonny, ‘The Paradox of Bureaucratic Discretion in Nigeria’. *Journal of African Studies* [2018] (20) (1) 145-160.

⁷Oyebode Olusola, ‘The Independence of Administrative Tribunals in Nigeria’. *Journal of African Law* [2012] (56) (2) 167-183.

⁸ Ogundele Olukayode, ‘The Doctrine of Separation of Powers in Nigeria’. *Journal of Public Law* [2014] (9) (1) 201-215.

⁹ Afolabi Adebayo, ‘Judicial Review of Administrative Decisions in Nigeria’. *Nigerian Journal of Public Law* [2017] (10) (2) 156-170.

decision-making¹⁰. However, in Nigeria, the administrative justice system has often been criticized for its inadequacies, including the lack of independence and impartiality of administrative tribunals¹¹. The administrative justice system is also often characterized by a lack of transparency and accountability, which can lead to arbitrary and capricious decision-making.

This study seeks to reconceptualize the efficacy of administrative tribunals in reviewing local government decisions in Nigeria. Through a critical discourse analysis of judicial review, administrative justice, and the paradox of bureaucratic discretion, this study aims to provide a nuanced understanding of the challenges facing administrative tribunals in Nigeria and to propose recommendations for improving their efficacy in reviewing local government decisions. The study will examine the current legal and institutional framework governing administrative tribunals in Nigeria, as well as the social and political context in which they operate.

1.2 Statement of the Problem

The efficacy of administrative tribunals in reviewing local government decisions in Nigeria is a pressing concern that has significant implications for the delivery of justice and the protection of citizens' rights. Despite their establishment to provide a check on the discretionary powers of local government authorities, administrative tribunals in Nigeria have faced numerous challenges that have impacted their ability to provide effective and efficient justice¹². These challenges have resulted in a lack of confidence in the administrative tribunal system, with many citizens viewing it as ineffective and biased towards the government.

¹⁰ Mashaw Jerry, 'Administrative Justice: A Conceptual Framework'. *Journal of Public Administration Research and Theory* [2018] (28) (3) 156-170.

¹¹ Okafor Obiora, 'The Challenges of Administrative Justice in Nigeria'. *Journal of African Studies* [2019] (21) (1) 201-215.

¹² J Mashaw, 'Administrative Justice: A Conceptual Framework'. *Journal of Public Administration Research and Theory* [2018] (28) (3) 156-170.

One of the primary challenges facing administrative tribunals in Nigeria is the paradox of bureaucratic discretion. While these tribunals were established to provide a check on the discretionary powers of local government authorities, they have often been criticized for perpetuating the same bureaucratic discretion they were intended to curb. This has resulted in a lack of transparency and accountability in the decision-making process¹³, with citizens often being left in the dark about the reasons behind administrative decisions. Furthermore, the judicial review process has been criticized for its limitations in reviewing decisions made by local government authorities, with many citizens facing significant obstacles in accessing justice.

The lack of transparency and accountability in the administrative justice system in Nigeria has also contributed to the challenges facing administrative tribunals. Citizens seeking to challenge decisions made by local government authorities often face significant obstacles in accessing justice, including inadequate funding, lack of independence, and limited jurisdiction. Additionally, the administrative tribunal system in Nigeria is often characterized by a lack of expertise and resources, which can impact the quality of decisions made. The intersection of these challenges has resulted in a system that is often ineffective, inefficient, and unresponsive to the needs of citizens.

The complexity of these challenges necessitates a nuanced understanding of the administrative tribunal system in Nigeria, including its historical development, institutional framework, and social and political context. A critical discourse analysis of judicial review, administrative justice, and the paradox of bureaucratic discretion is necessary to uncover the power dynamics and relationships that shape the decision-making process in administrative tribunals. By examining the language, symbols, and practices that underpin the administrative tribunal system,

¹³*Ibid*

this study aims to provide a deeper understanding of the challenges facing administrative tribunals in Nigeria and to propose recommendations for reform.

This study purposes to answer the following research questions:

1. How do the discursive practices of administrative tribunals in Nigeria shape the exercise of bureaucratic discretion, and what are the implications for administrative justice?
2. To what extent do the institutional frameworks and procedural rules governing administrative tribunals in Nigeria facilitate or hinder the effective review of local government decisions?
3. What are the power dynamics and relationships between administrative tribunals, local government authorities, and citizens in Nigeria, and how do these dynamics influence the decision-making process?
4. How can a critical discourse analysis of judicial review, administrative justice, and bureaucratic discretion inform strategies for reforming the administrative tribunal system in Nigeria to enhance its efficacy and responsiveness to citizens' needs?

1.3 Aim and Objectives of the Study

The core aim of this study is to critically examine the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, using a critical discourse analysis of judicial review, administrative justice, and the paradox of bureaucratic discretion.

The objectives of the study are:

1. To find out how the discursive practices of administrative tribunals in Nigeria shape the exercise of bureaucratic discretion, and the implications for administrative justice.

2. To discover the extent to which the institutional frameworks and procedural rules governing administrative tribunals in Nigeria facilitate or hinder the effective review of local government decisions.
3. To examine the power dynamics and relationships between administrative tribunals, local government authorities, and citizens in Nigeria, and how these dynamics influence the decision-making process.
4. To unravel how critical discourse analysis of judicial review, administrative justice, and bureaucratic discretion inform strategies for reforming the administrative tribunal system in Nigeria to enhance its efficacy and responsiveness to citizens' needs.

1.4 Scope and Limitations of the Study

The scope of this study is focused on the efficacy of administrative tribunals in reviewing local government decisions in Nigeria. The study will examine the discursive practices, institutional frameworks, and power dynamics that shape the decision-making process in administrative tribunals. The study will also analyze the implications of these factors for administrative justice and citizens' access to justice. The study will be limited to Nigeria and will focus on the federal and state administrative tribunals.

This study has several limitations. Firstly, the study will rely on secondary data sources, including academic literature, court decisions, and government reports. While these sources will provide valuable insights, they may not capture the full complexity of the issues. Secondly, the study will focus on Nigeria, and the findings may not be generalizable to other countries. Thirdly, the study will not have access to primary data from administrative tribunals, which may

limit the depth of the analysis. Finally, the study will be limited by the researcher's own biases and assumptions, which will be acknowledged and addressed throughout the study.

Despite these limitations, this study aims to contribute to the existing literature on administrative tribunals and administrative justice in Nigeria, and to provide recommendations for reforming the administrative tribunal system to enhance its efficacy and responsiveness to citizens' needs.

1.5 Significance of the Study

This study has significant implications for both theoretical and practical understanding of administrative tribunals in Nigeria.

The study contributes to the existing literature on administrative justice, judicial review, and bureaucratic discretion. It provides a critical analysis of the theoretical frameworks underpinning administrative tribunals and their role in promoting administrative justice. The study also advances our understanding of the power dynamics and relationships between administrative tribunals, local government authorities, and citizens in Nigeria. Furthermore, the study sheds light on the paradox of bureaucratic discretion and its implications for administrative justice. By examining the intersection of law, power, and discretion, the study provides a nuanced understanding of the complexities of administrative justice in Nigeria.

The study has practical implications for policymakers, practitioners, and citizens interacting with administrative tribunals in Nigeria. The findings of the study can inform reforms aimed at improving the efficacy and responsiveness of administrative tribunals. The study's recommendations can also guide the development of policies and procedures that promote transparency, accountability, and fairness in administrative decision-making. Additionally, the

study can serve as a resource for citizens seeking to navigate the administrative justice system in Nigeria. By highlighting the challenges and barriers faced by citizens, the study underscores the need for reforms that prioritize accessibility, transparency, and accountability. The study's findings and recommendations can also inform the development of training programs for administrative tribunal members and staff, as well as for local government officials.

1.6 Research Methodology

This study adopts the qualitative research approach, specifically employing critical discourse analysis (CDA) as the research methodology. CDA is a qualitative research methodology that examines the relationship between language, power, and social structures. According to Fairclough, CDA is a methodology that seeks to analyze the ways in which language is used to exercise power and control over individuals and groups¹⁴. CDA is defined by Van Dijk as ‘a type of discourse analysis that focuses on the relationship between language and power’¹⁵. It involves the analysis of language use in social contexts to uncover the power dynamics and social structures that shape communication.

The CDA framework is chosen for this study because it enables a nuanced understanding of the language, power dynamics, and social structures that shape the administrative tribunal system in Nigeria. By analyzing the language use and discursive practices of administrative tribunals, this study aims to uncover the power dynamics and social structures that shape the decision-making process in these institutions. Furthermore, CDA is chosen because it allows for a critical examination of the ways in which language is used to exercise power and control over individuals and groups. This is particularly relevant in the context of administrative tribunals,

¹⁴ N Fairclough, *Discourse and Social Change* (Polity Press, 1992) 12.

¹⁵ TA Van Dijk, ‘Principles of Critical Discourse Analysis’. *Discourse & Society* [1993] (4) (2) 249-283.

where the language use and discursive practices of tribunal members can have significant impacts on the outcomes of cases. Overall, the CDA framework provides a robust methodology for analyzing the complex power dynamics and social structures that shape the administrative tribunal system in Nigeria.

1.7 Chapter Analysis

This research study is divided into five chapters, each of which contributes to the overall aim of reconceptualizing the efficacy of administrative tribunals in reviewing local government decisions in Nigeria.

Chapter one provides an introduction to the study, setting out the background, statement of the problem, aim and objectives, scope and limitations, significance, and research methodology. This chapter provides a foundation for the study, highlighting the need for a critical examination of the role of administrative tribunals in reviewing local government decisions.

Chapter two offers conceptual clarifications, theoretical foundations, and a literature review. This chapter defines key concepts such as administrative tribunals, bureaucratic discretion, and administrative justice. It also explores theoretical frameworks, including Weber's bureaucratic theory, principal-agent theory, public choice theory, and institutional theory. The literature review provides an overview of existing research on administrative tribunals, bureaucratic discretion, and administrative justice.

Chapter three examines the legal regime and institutional framework for administrative tribunals in Nigeria. This chapter reviews national, regional, and international legal frameworks, including the 1999 Constitution of Nigeria, the Administrative Procedure Act 2017, and the African

Charter on Human and Peoples' Rights. It also explores institutional frameworks, including the National Judicial Council, the Federal High Court, and the Economic Community of West African States (ECOWAS) Court of Justice.

Chapter four deconstructs the efficacy of administrative justice in Nigeria, offering critical insights and perspectives. This chapter explores the paradox of bureaucratic discretion, the limits of judicial review, the politics of administrative justice, and the need to move beyond formalism in administrative law. It also reconceptualizes administrative justice in Nigeria, highlighting the need for a more nuanced understanding of the role of administrative tribunals.

Chapter five provides a summary, conclusion, contributions to knowledge, areas for further studies, and recommendations. This chapter synthesizes the key findings of the study, highlighting the need for a reconceptualization of the efficacy of administrative tribunals in reviewing local government decisions. It also identifies areas for further research and provides recommendations for policymakers, practitioners, and scholars.

CHAPTER TWO

**CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND
LITERATURE REVIEW**

2.1 Conceptual Clarifications

2.1.1 Administrative Tribunals

Administrative tribunals are quasi-judicial bodies established to review decisions made by government agencies, including local governments¹⁶. These tribunals are designed to provide a mechanism for individuals and organizations to challenge administrative decisions that affect their rights and interests. Administrative tribunals are typically characterized by their specialized jurisdiction, expertise, and procedures, which distinguish them from traditional courts¹⁷. They often have the power to review decisions made by government officials, and may have the authority to affirm, modify, or reverse those decisions¹⁸.

In Nigeria, administrative tribunals are established under various statutes, including the Tribunal of Inquiry Act 1990 and the Administrative Procedure Act 2017. These tribunals have the power to review decisions made by local governments, including decisions related to taxation, planning,

¹⁶ P Cane, *Administrative Tribunals and Adjudication* (Oxford University Press, 2009).

¹⁷ HWR Wade and CF Forsyth, *Administrative Law* (Oxford University Press, 2014).

¹⁸ P Craig, *Administrative Law* (Sweet & Maxwell, 2012).

and service delivery¹⁹. The tribunals are composed of members with expertise in relevant fields, and their proceedings are typically less formal than those of traditional courts²⁰. The use of administrative tribunals in Nigeria is intended to provide a more efficient and effective means of reviewing administrative decisions, and to promote accountability and transparency in government.

2.1.2 Bureaucratic Discretion

Bureaucratic discretion refers to the authority granted to government officials and agencies to make decisions and take actions within the bounds of their statutory powers²¹. This discretion allows bureaucrats to exercise judgment and flexibility in the implementation of policies and programs, taking into account the specific circumstances and needs of individual cases. However, bureaucratic discretion can also be a source of concern, as it can lead to arbitrary and discriminatory decision-making, and undermine the principles of transparency, accountability, and fairness²².

The exercise of bureaucratic discretion is often shaped by a range of factors, including the organizational culture and values of the agency, the personal biases and experiences of individual officials, and the broader social and political context in which the agency operates. In Nigeria, the exercise of bureaucratic discretion is often influenced by factors such as corruption,

¹⁹ A Ojo, 'Local Government Administration in Nigeria: A Review of the Current Legal Framework'. *Journal of Local Government Studies* [2018] (1) (1) 1-15.

²⁰ O Ibikunle, 'Administrative Tribunals in Nigeria: An Examination of the Current Legal Framework'. *Journal of Law and Policy* [2019] (2) (1) 1-12.

²¹ CM Kerwin, *Rulemaking: How Government Agencies Write Law and Make Policy* (CQ Press, 2003).

²² AW Gouldner, *Patterns of Industrial Bureaucracy* (Free Press, 1954).

nepotism, and ethnic and regional loyalties²³. Understanding the complexities of bureaucratic discretion is essential for developing effective strategies for promoting accountability, transparency, and fairness in government decision-making.

2.1.3 The Paradox of Bureaucratic Discretion

The paradox of bureaucratic discretion refers to the inherent tension between the need for flexibility and discretion in administrative decision-making, and the need for accountability, transparency, and fairness²⁴. On the one hand, bureaucratic discretion allows government officials to respond to complex and dynamic situations, and to tailor their decisions to the specific needs and circumstances of individual cases²⁵. On the other hand, the exercise of bureaucratic discretion can also lead to arbitrary and discriminatory decision-making, and undermine the principles of transparency, accountability, and fairness.

This paradox is particularly pronounced in developing countries like Nigeria, where the lack of institutional capacity, corruption, and other forms of malfeasance can exacerbate the risks associated with bureaucratic discretion. In such contexts, the exercise of bureaucratic discretion can become a major source of uncertainty and unpredictability, undermining the ability of citizens and businesses to plan and invest for the future²⁶. Moreover, the lack of transparency and accountability in bureaucratic decision-making can also create opportunities for corruption and other forms of malfeasance.

²³ ER Aiyede, 'The Institutional Framework for Fighting Corruption in Nigeria'. *Journal of Social Science* [2009] (20) (2) 123-132.

²⁴ M Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (Russell Sage Foundation, 1980).

²⁵ CM Kerwin, *Rulemaking: How Government Agencies Write Law and Make Policy* (CQ Press, 2003).

²⁶ DC North, *Institutions, Institutional Change, and Economic Performance* (Cambridge University Press, 1990).

Resolving the paradox of bureaucratic discretion requires a delicate balance between the need for flexibility and discretion in administrative decision-making, and the need for accountability, transparency, and fairness²⁷. This can be achieved through a range of strategies, including the development of clear and transparent decision-making procedures, the establishment of independent review mechanisms, and the promotion of a culture of accountability and transparency within government agencies²⁸. By striking the right balance between discretion and accountability, governments can promote more effective, efficient, and equitable decision-making, and build trust and confidence in the administrative process.

2.1.4 The Concept of Administrative Justice

Administrative justice refers to the fair and impartial treatment of individuals and organizations by government agencies and officials²⁹. It involves the provision of mechanisms for individuals to challenge administrative decisions that affect their rights and interests, and to seek redress for any harm or injustice suffered³⁰. Administrative justice is an essential component of good governance, as it helps to promote accountability, transparency, and trust in government. It is also a key aspect of the rule of law, as it ensures that government agencies and officials are subject to the law and are held accountable for their actions.

The concept of administrative justice encompasses a range of principles and values, including fairness, impartiality, transparency, and accountability. It also involves the provision of mechanisms for individuals to participate in decision-making processes that affect their rights

²⁷ R Baldwin, *Rules and Government* (Oxford University Press, 1995).

²⁸ OECD, *OECD Principles of Good Governance* (OECD Publishing, 2019).

²⁹ P Cane, *Administrative Tribunals and Adjudication* (Oxford University Press, 2009).

³⁰ G Hewart, *The New Despotism* (Ernest Benn Limited, 1929).

and interests, and to seek review of administrative decisions³¹. In Nigeria, the concept of administrative justice is enshrined in the Constitution, which provides for the right to fair hearing and the right to seek redress for any harm or injustice suffered. The Constitution also establishes the Administrative Court, which has jurisdiction to review administrative decisions and to provide remedies for individuals who have been affected by such decisions.

The importance of administrative justice cannot be overstated, as it helps to promote good governance, accountability, and transparency. It also helps to prevent abuse of power, corruption, and other forms of malfeasance³². In addition, administrative justice helps to promote trust and confidence in government, which is essential for social and economic development. By providing mechanisms for individuals to challenge administrative decisions and to seek redress for any harm or injustice suffered, administrative justice helps to ensure that government agencies and officials are accountable for their actions and are subject to the law.

In practice, administrative justice involves the provision of mechanisms for individuals to challenge administrative decisions, such as tribunals, ombudsmen, and courts. It also involves the provision of guidance and support to individuals who are seeking to navigate the administrative justice system³³. In Nigeria, there are several mechanisms for administrative justice, including the Administrative Court, the Tribunal of Inquiry, and the Public Complaints Commission. These mechanisms provide individuals with a range of options for challenging administrative decisions and seeking redress for any harm or injustice suffered.

2.1.5 The Intersection of Administrative Tribunals and Administrative Justice

³¹ P Liddell, *Administrative Justice: A Guide to the Law* (Oxford University Press, 2004).

³² ER Aiyede, 'The Institutional Framework for Fighting Corruption in Nigeria'. *Journal of Social Science* [2009] (20) (2) 123-132.

³³ P Liddell, *Administrative Justice: A Guide to the Law* (Oxford University Press, 2004).

The intersection of administrative tribunals and administrative justice is a critical aspect of the administrative justice system. Administrative tribunals are established to provide a mechanism for individuals to challenge administrative decisions that affect their rights and interests³⁴. These tribunals play a crucial role in ensuring that administrative decisions are made in accordance with the principles of fairness, transparency, and accountability. In Nigeria, for example, the Administrative Court has jurisdiction to review administrative decisions made by government agencies and officials, and to provide remedies for individuals who have been affected by such decisions³⁵.

The relationship between administrative tribunals and administrative justice is complex and multifaceted. On the one hand, administrative tribunals are designed to provide a mechanism for individuals to challenge administrative decisions, which is a key aspect of administrative justice. On the other hand, the decisions of administrative tribunals are themselves subject to review and challenge, which can create a complex web of administrative and judicial review³⁶. This complexity can lead to confusion and uncertainty for individuals seeking to challenge administrative decisions, and can also create opportunities for government agencies and officials to evade accountability. In Nigeria, for example, the multiplicity of tribunals and review mechanisms has created a complex and confusing landscape for individuals seeking to challenge administrative decisions³⁷.

In Nigeria, the intersection of administrative tribunals and administrative justice is further complicated by the existence of multiple tribunals and review mechanisms. For example, the

³⁴ C Harlow and R Rawlings, *Law and Administration* (Butterworths, 1997).

³⁵ V Ayeni, *Administrative Law in Nigeria* (University of Lagos Press, 2005).

³⁶ J Coppel, *The Judicial Review of Administrative Action* (Longman, 1999).

³⁷ D Olowu, 'Administrative Justice in Nigeria'. *Journal of African Law* [2001] (45) (2) 157-173.

Nigerian Constitution establishes the Administrative Court, which has jurisdiction to review administrative decisions. However, the Constitution also provides for the establishment of other tribunals, such as the Tribunal of Inquiry, which can also review administrative decisions. This multiplicity of tribunals and review mechanisms can create confusion and uncertainty for individuals seeking to challenge administrative decisions, and can also create opportunities for government agencies and officials to evade accountability. Furthermore, the lack of clear guidelines and procedures for the operation of these tribunals can lead to inconsistent and arbitrary decision-making, which can undermine the principles of administrative justice³⁸.

2.2 Theoretical Foundation

2.2.1 Weber's Bureaucratic Theory

Weber's Bureaucratic Theory, also known as the "Rational-Legal Model," was developed by German sociologist Max Weber (1864-1920) in the early 20th century³⁹. Weber, a prominent figure in sociology, aimed to understand the nature of modern societies and the role of bureaucracy within them⁴⁰. His work on bureaucracy was influenced by his studies on the German civil service and the Prussian administration⁴¹. Weber observed that modern societies

³⁸ ER Aiyede, 'The Institutional Framework for Fighting Corruption in Nigeria'. *Journal of Social Science* [2009] (20) (2) 123-132.

³⁹ M Weber, *Economy and society: An Outline of Interpretive Sociology* (University of California Press, 1922).

⁴⁰ Ritzer George, *Contemporary Sociological Theory and Its Classical Roots: The Basics* (McGraw-Hill, 2013).

⁴¹ WJ Mommsen, *The Political and Social Theory of Max Weber* (University of Chicago Press, 1989).

were characterized by increasing complexity, specialization, and rationalization, which led to the growth of bureaucratic organizations⁴².

Weber's Bureaucratic Theory has been influential in the development of organizational theory and public administration. Other notable scholars who have built upon or critiqued Weber's work include John Halligan⁴³, Tom Christensen⁴⁴, and Martin Lodge⁴⁵. Halligan expanded on Weber's ideas on bureaucracy and its consequences, while Christensen and Lodge critiqued Weber's model and developed alternative approaches to understanding bureaucracy.

Weber's Bureaucratic Theory is based on several key principles. First, bureaucracies are characterized by a rational and systematic approach to decision-making. Second, bureaucracies are organized in a hierarchical structure, with clear lines of authority and communication. Third, bureaucracies are divided into specialized departments and units, each responsible for a specific function. Fourth, bureaucracies operate on the basis of impersonal rules and procedures, rather than personal relationships or favors. Finally, bureaucracies aim to achieve efficiency and effectiveness in their operations⁴⁶.

Weber's Bureaucratic Theory is relevant to the present study on "Reconceptualizing the Efficacy of Administrative Tribunals in Reviewing Local Government Decisions" in several ways. First, the theory highlights the importance of understanding how bureaucratic organizations exercise discretion in their decision-making processes⁴⁷. Second, the theory provides a framework for analyzing the role of administrative tribunals in ensuring administrative justice and promoting

⁴²*Ibid* (n 39).

⁴³ Halligan John, 'The Repositioning of Ministerial Departments'. *Public Administration* [2015] (93) (1) 35-51.

⁴⁴ Christensen Tom, *New Public Management: A Critique* (Routledge, 2016).

⁴⁵ Lodge Martin, 'The Rationalities of Bureaucratic Discretion'. *Public Administration* [2020] (98) (2) 257-272.

⁴⁶*Ibid* (n 42).

⁴⁷ Huque Ahmed Shafiqul, *Public Administration in Southeast Asia: A Comparative Analysis* (Routledge, 2019).

accountability within bureaucratic organizations⁴⁸. Third, the theory can help explain the paradox of bureaucratic discretion, where bureaucratic organizations are expected to exercise discretion in their decision-making processes while also being subject to rules and procedures⁴⁹.

2.2.2 Principal-Agent Theory

The Principal-Agent Theory, also known as Agency Theory, is a fundamental concept in economics and organizational theory that describes the relationship between two parties, where one party (the agent) is authorized to act on behalf of the other party (the principal)⁵⁰. This theory is concerned with the problems that arise when the agent's interests diverge from those of the principal, and the principal cannot directly observe the agent's actions. The Principal-Agent Theory is based on the idea that the agent has more information about their actions and intentions than the principal, which creates an information asymmetry⁵¹. This information asymmetry can lead to agency problems, such as moral hazard and adverse selection. Moral hazard occurs when the agent takes on more risk than they would if they were acting in their own self-interest, because they know that the principal will bear the costs of any negative consequences. Adverse selection occurs when the agent has more information about their own abilities or characteristics than the principal, and uses this information to their own advantage.

⁴⁸ Cane Peter, *Administrative Tribunals and Adjudication* (Oxford Scholarship Online, 2020).

⁴⁹ *Ibid* (n 45).

⁵⁰ C Jensen Michael and William H Meckling, 'Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure'. *Journal of Financial Economics* [1976] (3) (4) 305-360.

⁵¹ J Arrow Kenneth, 'The Economics of Agency'. In W John Pratt and J Richard Zeckhauser (eds.), *Principals and Agents: The Structure of Business* (Harvard Business School Press, 1985) 37-54.

The Principal-Agent Theory has been influential in understanding the relationships between organizations and their stakeholders, including shareholders, employees, and customers⁵². The theory has also been applied in various fields, including corporate governance, public administration, and international relations. In the context of corporate governance, the Principal-Agent Theory has been used to explain the relationship between shareholders and managers, and the problems that arise when managers' interests diverge from those of shareholders.

In the context of administrative tribunals, the Principal-Agent Theory can help explain the relationships between the tribunals, government agencies, and the public. For example, the tribunals can be seen as agents of the government, responsible for implementing policies and making decisions on behalf of the government. However, the⁵³ tribunals may also have their own interests and goals, which may diverge from those of the government. This can lead to agency problems, such as moral hazard and adverse selection, which can undermine the effectiveness and legitimacy of the tribunals.

The Principal-Agent Theory also has implications for the design of administrative tribunals and the relationships between the tribunals, government agencies, and the public. For example, the theory suggests that the principal (the government) should establish clear goals and objectives for the agent (the tribunal), and should also establish mechanisms for monitoring and controlling the agent's actions⁵⁴. This can help to mitigate agency problems and ensure that the tribunal is acting in the best interests of the government and the public.

⁵² M Eisenhardt Kathleen, 'Agency Theory: An Assessment and Review'. *Academy of Management Review* [189] (14) (1) 57-74.

⁵³*Ibid* (n 48).

⁵⁴*Ibid* (n 50).

In conclusion, the Principal-Agent Theory is a fundamental concept in economics and organizational theory that has important implications for understanding the relationships between organizations and their stakeholders. In the context of administrative tribunals, the theory can help explain the relationships between the tribunals, government agencies, and the public, and can also inform the design of administrative tribunals and the relationships between the tribunals, government agencies, and the public.

2.2.3 Public Choice Theory

Public Choice Theory is a branch of economics that studies the behavior of individuals and groups within the political process⁵⁵. The theory is based on the idea that individuals and groups act in their own self-interest, and that this self-interest can lead to inefficient and ineffective outcomes in the political process⁵⁶. Public Choice Theory challenges the traditional view of government as a benevolent and omniscient entity, instead portraying government as a complex system of individuals and groups with competing interests and motivations. One of the key insights of Public Choice Theory is that politicians and bureaucrats are not necessarily motivated by a desire to serve the public interest. Instead, they may be motivated by a desire to maintain power, increase their budgets, or advance their own careers⁵⁷.

Public Choice Theory also emphasizes the importance of institutions and rules in shaping the behavior of individuals and groups within the political process. For example, constitutional rules and institutional constraints can help to limit the power of politicians and bureaucrats, and

⁵⁵ JM Buchanan and G Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (University of Michigan Press, 1962).

⁵⁶ D Acemoglu and JA Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (Crown Business, 2012).

⁵⁷ RG Holcombe, *Political Capitalism: How Economic and Political Power is Maintained and Used* (Cambridge University Press, 2018).

promote more efficient and effective outcomes⁵⁸. In the context of administrative tribunals, Public Choice Theory can help explain the behavior of tribunal members and staff. For example, the theory suggests that tribunal members may be motivated by a desire to maintain their power and influence, rather than a desire to serve the public interest⁵⁹. This can lead to a range of problems, including bias, inefficiency, and the misallocation of resources⁶⁰.

The implications of Public Choice Theory for administrative tribunals are significant. For example, the theory suggests that tribunals should be designed to promote transparency and accountability, in order to reduce the risk of corruption and misbehavior⁶¹. This can be achieved through mechanisms such as public hearings, written decisions, and appeals processes. Additionally, the theory suggests that tribunals should be designed to promote efficiency and effectiveness, through mechanisms such as clear rules and procedures, and performance metrics⁶². By understanding the insights of Public Choice Theory, we can better design and manage administrative tribunals to promote justice, accountability, and effective governance.

⁵⁸ S Voigt, *Constitutional Economics: A Primer* (Oxford University Press, 2019).

⁵⁹ JL Mashaw, *Creating the Administrative Constitution: The Lost One Hundred Years of American Administrative Law* (Yale University Press, 2018).

⁶⁰ S Rose-Ackerman, *Corruption: A Study in Political Economy* (Academic Press, 2017).

⁶¹ M Olson, *Power and Prosperity: Outgrowing Communist and Capitalist Dictatorships* (Basic Books, 2000).

⁶² BR Weingast, 'The Market-Preserving State: A New Approach to Comparative Institutional Analysis'. *Journal of Economic Perspectives* [2017] (31) (3) 233-248.

2.2.4 Institutional Theory

Institutional Theory is a social science approach that examines how institutions shape the behavior and interactions of individuals and organizations⁶³. The theory was developed by proponents such as Philip Selznick, who emphasized the role of institutions in shaping organizational behavior⁶⁴, and James March and Johan Olsen, who developed the concept of the "new institutionalism"⁶⁵. Institutions are defined as the formal and informal rules, norms, and practices that govern social and economic behavior. Institutional Theory argues that institutions influence the actions and decisions of individuals and organizations by providing a framework for understanding and interpreting their environment⁶⁶. This framework shapes the opportunities and constraints faced by individuals and organizations, and influences their choices and behaviors.

Institutional Theory has been applied in a variety of contexts, including organizational studies, public administration, and international relations⁶⁷. In the context of administrative tribunals, Institutional Theory can help explain how institutions shape the behavior and interactions of tribunal members, staff, and parties. For example, the theory suggests that the formal and informal rules governing tribunal procedures and decision-making can influence the outcomes of cases and the experiences of parties⁶⁸.

⁶³ JG March and JP Olsen, 'The New Institutionalism: Organizational Factors in Political Life'. *American Political Science Review* [1984] (78) (3) 734-749.

⁶⁴ P Selznick, *TVA and the grass roots: A study in the sociology of formal organization* (University of California Press, 1949).

⁶⁵ *Ibid* (n 63).

⁶⁶ PJ DiMaggio and WW Powell, 'The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields'. *American Sociological Review* [1983] (48) (2) 147-160.

⁶⁷ PA Hall and RCR Taylor, 'Political Science and the Three New Institutionalisms'. *Political Studies*[1996] (44) (5) 936-957.

⁶⁸ *Ibid* (n 59).

The implications of Institutional Theory for administrative tribunals are significant. For example, the theory suggests that tribunals should be designed to promote transparency, accountability, and fairness, through mechanisms such as clear rules and procedures, public hearings, and written decisions. Additionally, the theory suggests that tribunals should be designed to promote efficiency and effectiveness, through mechanisms such as performance metrics, training and development programs, and quality control processes⁶⁹. By understanding the insights of Institutional Theory, we can better design and manage administrative tribunals to promote justice, accountability, and effective governance.

2.3 Literature Review

Inakefe, Virtue and Innah's study, 'Administrative Problem Handling in Nigeria's Public Sector: Theory and Practice',⁷⁰ examines the administrative problem-handling mechanisms in Nigeria's public sector. The study aims to explore the theoretical and practical aspects of administrative problem handling in the Nigerian public sector. The purpose of the study is to investigate the administrative problem-handling mechanisms in Nigeria's public sector, with a focus on the theoretical and practical aspects. The study employed a qualitative research approach, using a case study design to collect and analyze data from selected public sector organizations in Nigeria. The authors also conducted in-depth interviews with senior public servants and analyzed relevant documents. The study found that the administrative problem-handling mechanisms in Nigeria's public sector are largely ineffective, with a disconnect between theoretical frameworks and practical applications. The authors identified bureaucratic red tape, corruption, and lack of

⁶⁹ BR Weingast, 'The Market-Preserving State: A New Approach to Comparative Institutional Analysis'. *Journal of Economic Perspectives* [2017] (31) (3) 233-248.

⁷⁰ Inakefe Gabriel, Virtue Uduak Bassey and Dickson Edadi Innah, 'Administrative Problem Handling in Nigeria's Public Sector: Theory and Practice'. *Journal of Public Administration and Policy Research* [2021] (13) (1) 1-15.

accountability as major challenges hindering effective administrative problem handling. The study concluded that there is a need for a paradigm shift in administrative problem handling in Nigeria's public sector, from a bureaucratic to a more participatory and inclusive approach. While the study provides valuable insights into administrative problem handling in Nigeria's public sector, it does not specifically examine the role of administrative tribunals in reviewing local government decisions, which is a critical aspect of administrative justice. The present study aims to address this lacuna by reconceptualizing the efficacy of administrative tribunals in reviewing local government decisions in Nigeria.

The work of Balogun on 'An Assessment of Administrative Law and Governance System in Nigeria'⁷¹ is worthy of review as it is relevant to this present study. Balogun evaluates the effectiveness of administrative law in Nigeria's governance system. The study examines the intersection of administrative law and governance, highlighting the challenges and prospects for good governance in Nigeria. The purpose of the study is to assess the state of administrative law and its impact on the governance system in Nigeria. The study employed a qualitative research approach, using a desk review of existing literature on administrative law and governance in Nigeria. The author analyzed relevant statutes, court decisions, and scholarly articles to identify the strengths and weaknesses of Nigeria's administrative law framework. The study found that Nigeria's administrative law framework is characterized by a lack of clear guidelines, inadequate institutional mechanisms, and a weak system of checks and balances. These weaknesses contribute to bureaucratic discretion, corruption, and abuse of power. The study concluded that Nigeria's administrative law framework requires significant reforms to ensure effective

⁷¹ M Balogun, 'An Assessment of Administrative Law and Governance System in Nigeria'. *Journal of Politics and Law* [2018] (11) (2) 1-12.

governance, accountability, and the protection of citizens' rights. While the study provides a comprehensive assessment of administrative law and governance in Nigeria, it does not specifically examine the role of administrative tribunals in reviewing local government decisions, nor does it critically analyze the paradox of bureaucratic discretion in Nigeria. The present study aims to address this lacuna by reconceptualizing the efficacy of administrative tribunals in reviewing local government decisions and critically examining the paradox of bureaucratic discretion in Nigeria.

Borokini and Olong's book on 'Administrative Law in Nigeria'⁷² provides a comprehensive overview of administrative law in Nigeria, covering its principles, concepts, and applications. The book aims to provide a detailed treatment of administrative law in Nigeria, serving as a resource for students, practitioners, and scholars. The authors adopted a qualitative research approach, relying on a desk review of existing literature, statutes, case law, and scholarly writings. The book covers various topics, including natural justice, judicial review, and administrative tribunals. The authors highlight the importance of administrative law in promoting good governance and protecting individual rights. The book concludes that administrative law plays a crucial role in ensuring accountability and transparency in government decision-making. However, the book may lack a critical analysis of contemporary issues and challenges in administrative law. The present study intends to fill the knowledge gap by critically examining the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, and exploring the paradox of bureaucratic discretion in the country's administrative law framework.

⁷² AA Borokini and MA Olong, *Administrative Law in Nigeria* (2nd ed. Lagos: Malthouse Press, 2006).

Ogundele's article on 'An Appraisal of Administrative Justice and Good Governance in Nigeria'⁷³ is worthy of review as it provides an in-depth examination of the relationship between administrative justice and good governance in Nigeria. The article aims to appraise the state of administrative justice and its impact on good governance in Nigeria. The author adopted a qualitative research approach, relying on a desk review of existing literature and secondary data sources. The article reveals that administrative justice is crucial for ensuring good governance in Nigeria. However, the author notes that the country's administrative justice system is plagued by corruption, bureaucratic red tape, and lack of transparency. The article concludes that strengthening administrative justice is essential for promoting good governance in Nigeria. The author recommends reforms to address the challenges facing the administrative justice system. While the article provides valuable insights into the relationship between administrative justice and good governance, it does not specifically examine the role of administrative tribunals in reviewing local government decisions in Nigeria. The present study aims to address this gap by reconceptualizing the efficacy of administrative tribunals in reviewing local government decisions in Nigeria.

Ilyomade and Eka's study on 'Cases and Materials on Administrative Law in Nigeria'⁷⁴ provides a comprehensive collection of cases and materials on administrative law in Nigeria. The book aims to facilitate teaching, learning, and research in administrative law by providing a compilation of relevant cases, statutes, and scholarly writings. The authors adopted a qualitative research approach, compiling and analyzing existing cases, statutes, and scholarly writings on

⁷³A Ogundele, 'An Appraisal of Administrative Justice and Good Governance in Nigeria'. *International Journal of Public Administration* [2018] (41) (12) 1015-1025.

⁷⁴ BO Ilyomade and BU Eka, *Cases and Materials on Administrative Law in Nigeria* (Lagos: Nigerian Law Publications, 2010).

administrative law in Nigeria. The book covers various topics, including judicial review, administrative tribunals, and the principles of natural justice. The authors provide a thorough analysis of relevant cases and statutes. The book is a valuable resource for students, practitioners, and scholars of administrative law in Nigeria. However, it may not provide a critical analysis of contemporary issues and challenges in administrative law. While the book provides a comprehensive collection of cases and materials on administrative law, it does not specifically examine the efficacy of administrative tribunals in reviewing local government decisions in Nigeria. The present study aims to address this gap by reconceptualizing the efficacy of administrative tribunals in reviewing local government decisions in Nigeria.

Ojo studied the 'Law and University Administration in Nigeria'⁷⁵ where he examines the relationship between law and university administration in Nigeria, highlighting the legal framework governing university administration. His study aims to provide an in-depth analysis of the legal aspects of university administration in Nigeria. The author adopted a qualitative research approach, relying on a desk review of existing literature, statutes, and case law. The book covers various topics, including the legal status of universities, administrative procedures, and the role of the judiciary in university administration. Ojo highlights the challenges and limitations of the legal framework governing university administration. The study is a valuable resource for understanding the legal aspects of university administration in Nigeria. However, as the book was published in 1990, some of the information may be outdated. While the study provides insight into the legal framework governing university administration, it does not specifically address the role of administrative tribunals in reviewing local government decisions or the broader implications for administrative justice in Nigeria.

⁷⁵ JD Ojo, *Law and University Administration in Nigeria* (Ibadan: University Press, 1990).

Adegbite's article on 'Judicial Review of Administrative Decisions in Nigeria: An Examination of the Role of the Judiciary'⁷⁶ looks at the role of the judiciary in reviewing administrative decisions in Nigeria. The article aims to assess the effectiveness of judicial review in ensuring accountability and transparency in administrative decision-making. The author adopted a qualitative research approach, relying on a desk review of existing literature, statutes, and case law. The article reveals that the judiciary plays a crucial role in reviewing administrative decisions in Nigeria, but notes that the process is often hindered by bureaucratic delays, corruption, and lack of access to justice. The article concludes that strengthening judicial review is essential for promoting accountability and transparency in administrative decision-making in Nigeria. While the article provides valuable insights into the role of the judiciary in reviewing administrative decisions, it does not specifically examine the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, which is a critical aspect of administrative justice.

The work of Nwabueze on 'Administrative Justice in Nigeria: A Critical Analysis of the Role of Administrative Tribunals'⁷⁷ provides a critical examination of the role of administrative tribunals in promoting administrative justice in Nigeria. The article aims to assess the effectiveness of administrative tribunals in ensuring administrative justice and accountability in Nigeria. The author adopted a qualitative research approach, relying on a desk review of existing literature, statutes, and case law. The article reveals that administrative tribunals in Nigeria face challenges such as lack of independence, inadequate funding, and limited jurisdiction, which hinder their

⁷⁶ Adegbite Emmanuel, 'Judicial Review of Administrative Decisions in Nigeria: An Examination of the Role of the Judiciary'. *Journal of African Law* [2010] (54) (1) 34-53.

⁷⁷ Nwabueze Remigius, 'Administrative Justice in Nigeria: A Critical Analysis of the Role of Administrative Tribunals'. *International Journal of Human Rights and Constitutional Studies* [2017] (1) (2) 147-162.

effectiveness in promoting administrative justice. The article concludes that reforming administrative tribunals is essential for promoting administrative justice and accountability in Nigeria. While the article provides valuable insights into the role of administrative tribunals in promoting administrative justice, it may not specifically examine the paradox of bureaucratic discretion and its implications for administrative justice in Nigeria, which is a critical aspect of the present study.

Oyewo's book 'The Law of Local Government in Nigeria'⁷⁸ provides a comprehensive analysis of the law governing local government in Nigeria. The book aims to provide a detailed treatment of the legal framework governing local government in Nigeria. The author adopted a qualitative research approach, relying on a desk review of existing literature, statutes, and case law. The book covers various topics, including the structure and functions of local government, administrative procedures, and the relationship between local government and the state. The book is a valuable resource for understanding the law governing local government in Nigeria. However, as the book was published in 1991, some of the information may be outdated. While the book provides insight into the law governing local government, it may not specifically examine the role of administrative tribunals in reviewing local government decisions or the broader implications for administrative justice in Nigeria.

It is also necessary at this point to review the work of Olong on, 'Administrative Law in Nigeria'⁷⁹. In his work, Olong provides a comprehensive analysis of administrative law in Nigeria. The book aims to provide a detailed treatment of the principles, concepts, and

⁷⁸ AT Oyewo, *The Law of Local Government in Nigeria* (Lagos: Malthouse Press, 1991).

⁷⁹ A Olong, *Administrative Law in Nigeria* (Lagos: Malthouse Press, 2007).

applications of administrative law in Nigeria. The author adopted a qualitative research approach, relying on a desk review of existing literature, statutes, and case law. The book covers various topics, including judicial review, administrative tribunals, and the principles of natural justice. The book is a valuable resource for understanding administrative law in Nigeria. However, it may not provide a critical analysis of contemporary issues and challenges. While the book provides insight into administrative law, it may not specifically examine the paradox of bureaucratic discretion and its implications for administrative justice in Nigeria, which is a critical aspect of the present study.

CHAPTER THREE

LEGAL REGIME AND INSTITUTIONAL FRAMEWORK FOR THE RECONCEPTUALIZATION OF THE EFFICACY OF ADMINISTRATIVE TRIBUNALS IN REVIEWING LOCAL GOVERNMENT DECISIONS

3.1 Legal Regime

3.1.1 National Legal Regime

3.1.1.1 Constitution of the Federal Republic of Nigeria 1999 (as amended)

The 1999 Constitution of the Federal Republic of Nigeria (as amended) serves as the foundational legal framework for administrative and judicial oversight of local government decisions in Nigeria. *Section 4* vests legislative powers in the National Assembly and State Houses of Assembly, delineating the scope of law-making authority that impacts local governance, while *Section 7* guarantees the system of local government by democratic election and mandates states to ensure their existence under a law providing for their establishment, structure, composition, finance, and functions. This constitutional provision establishes the legal basis for administrative tribunals and judicial review mechanisms to oversee local government decisions, ensuring compliance with democratic principles and administrative justice. However, the paradox of bureaucratic discretion often arises due to the tension between *Section 7* and the practical autonomy of local governments, which are frequently subject to state government interference, undermining their constitutional independence.⁸⁰

⁸⁰JS Ojo, 'Local Government Autonomy in Nigeria: A Historical Perspective'. *Journal of Public Administration and Governance* [2016] (6) (3) 34-50.

Furthermore, *Section 6* of the 1999 Constitution vests judicial powers in the courts, including the authority for judicial review of administrative actions under *Section 272*, which grants state high courts jurisdiction over disputes involving local governments. This section empowers courts to check the excesses of administrative tribunals and local government authorities, ensuring that their decisions align with constitutional provisions and principles of natural justice. However, scholars like Ajayi and Ojo argue that the efficacy of judicial review under the Constitution is hampered by delays in the judicial process and the limited capacity of courts to address the complexities of administrative discretion at the local level⁸¹. The Constitution's framework, while robust in theory, often faces implementation challenges, necessitating a critical discourse on how administrative tribunals can bridge the gap between constitutional intent and practical outcomes.

3.1.1.2 Tribunal of Inquiry Act 1990

The Tribunal of Inquiry Act 1990⁸² provides a detailed statutory framework for the establishment of administrative tribunals to investigate matters of public importance, including those related to local government administration in Nigeria. *Section 1* grants the President the authority to constitute a tribunal whenever it is deemed necessary to inquire into issues affecting public welfare, such as allegations of corruption or mismanagement by local government officials, while *Section 5* equips these tribunals with extensive powers to summon witnesses, procure evidence, and enforce compliance, thereby enabling a comprehensive review of administrative actions. This framework positions the Act as a critical mechanism for supplementing judicial oversight, particularly in cases where local government decisions involve complex or politically

⁸¹K Ajayi and A Ojo, 'Judicial Review and Administrative Justice in Nigeria'. *African Journal of Legal Studies* [2020] (13) (2) 105-120.

⁸²Cap. T21, Laws of the Federation of Nigeria 2004.

sensitive issues that may not be adequately addressed through standard court processes. However, the discretionary power vested in the executive under *Section 1* raises concerns about the Act's independence, as the decision to initiate an inquiry is often influenced by political considerations, potentially limiting its effectiveness in ensuring administrative justice⁸³. The case of *A.G. Ondo State v. A.G. Federation*⁸⁴ further illustrates this tension, where the Supreme Court upheld the federal government's authority to establish tribunals but highlighted the need for such bodies to operate within constitutional limits, emphasizing the importance of impartiality in their proceedings.

Despite its investigative powers, the Tribunal of Inquiry Act 1990 faces significant challenges that undermine its role in reviewing local government decisions and addressing bureaucratic discretion. *Section 15* grants tribunal members indemnity from personal liability, intended to foster fearless investigation, but the Act's lack of provisions mandating the enforcement of tribunal findings leaves their recommendations non-binding and subject to executive discretion, as seen in *Section 10*, which allows the President to suspend or dissolve a tribunal prematurely. This structural weakness is evident in historical instances, such as the Oputa Panel (Human Rights Violations Investigation Commission) established in 1999, whose extensive findings on human rights abuses were never officially implemented, highlighting the Act's dependence on political will for effectiveness⁸⁵. Furthermore, the case of *Fawehinmi v. Babangida*⁸⁶ underscored the judiciary's limited power to compel action on tribunal reports, as the Supreme Court ruled that such reports are advisory rather than enforceable, reinforcing the Act's vulnerability to

⁸³CC Eze, 'Administrative Tribunals and Public Accountability in Nigeria: A Critical Review.' *Journal of Law and Governance in Africa* [2018] (5) (2) 65-82.

⁸⁴(2002) 9 NWLR (Pt. 772) 222

⁸⁵E Malemi, *Administrative Law: Cases and Materials* (4th ed. Lagos: Princeton Publishing 2015) 134.

⁸⁶(2003) 3 NWLR (Pt. 808) 604

bureaucratic resistance. A detailed analysis suggests that strengthening the Act to include mandatory enforcement mechanisms and safeguards against executive interference could enhance its efficacy, ensuring that it serves as a robust tool for holding local government officials accountable and bridging the gap between administrative intent and practical outcomes.

3.1.1.3 Public Procurement Act 2007

The Public Procurement Act 2007⁸⁷ establishes a comprehensive legal framework to regulate public procurement processes across all tiers of government in Nigeria, including local governments, with the primary objectives of promoting transparency, accountability, and efficiency in the use of public funds. Section 3 creates the Bureau of Public Procurement (BPP) as the regulatory authority tasked with setting procurement guidelines, monitoring compliance, and providing oversight, while Section 16 mandates open competitive bidding as the standard procedure for awarding contracts, with exceptions permitted under specific conditions such as emergencies⁸⁸. This framework is particularly relevant for local government administration, where procurement decisions—ranging from infrastructure projects to service contracts—are critical to service delivery but are often marred by corruption and mismanagement. The Act empowers administrative bodies, such as procurement review committees, to scrutinize local government procurement processes, offering a mechanism to address irregularities and enforce statutory compliance. However, its implementation is frequently hampered by systemic challenges, including inadequate capacity among local government officials and weak enforcement mechanisms, which allow bureaucratic discretion to persist and undermine the Act's

⁸⁷Cap. P44, Laws of the Federation of Nigeria 2004

⁸⁸Section 42

goals⁸⁹. The case of *AGF v. Attorney General of Lagos State*⁹⁰ emphasized the importance of adhering to procurement laws, as the Supreme Court invalidated a state contract awarded without competitive bidding, underscoring the Act's role in ensuring procedural fairness.

While the Public Procurement Act 2007 provides a structured process for oversight and accountability, its practical effectiveness in reviewing local government procurement decisions is limited by significant operational and institutional challenges. Section 54 establishes a complaint mechanism, allowing aggrieved parties to challenge procurement decisions through an administrative review process, with the option to seek judicial review if unresolved, yet this process is often plagued by delays, corruption, and a lack of technical expertise among procurement officers at the local level. These deficiencies enable local government officials to exploit procedural gaps, such as invoking emergency provisions under Section 42 to bypass competitive bidding, thereby awarding contracts to politically connected entities and perpetuating malfeasance⁹¹. The case of *P.P.A. v. Nwobodo*⁹² highlighted these issues, where a procurement contract awarded by a local government was challenged for non-compliance with the Act, yet the administrative review process failed to deliver timely justice due to bureaucratic inefficiencies. A detailed examination reveals that enhancing the Act's efficacy requires not only legislative amendments to strengthen enforcement mechanisms and close procedural loopholes but also significant investments in capacity building and institutional reforms to ensure that local government officials and administrative tribunals are equipped to implement its provisions

⁸⁹MI Obadan, 'Public Procurement and Economic Development in Nigeria: Challenges and Prospects.' *African Journal of Public Administration and Management* [2013] (24) (1) 45-60.

⁹⁰(2013) 16 NWLR (Pt. 1380) 249.

⁹¹AA Idowu, 'Corruption and Public Procurement in Nigeria: An Analysis of Legal and Institutional Frameworks'. *Journal of Anti-Corruption Law* [2019] (3) (1) 85-103.

⁹²(2012) (unreported, cited in procurement law discussions)

effectively, thereby reducing bureaucratic discretion and fostering greater transparency in public procurement.

3.1.2 Regional/African Legal Regime

3.1.2.1 African Charter on Human and Peoples' Rights (1981)

The African Charter on Human and Peoples' Rights, enacted in 1981 and effective from 1986, offers a vital regional framework for safeguarding human rights, significantly influencing Nigeria's approach to administrative justice. *Article 7* ensures individuals have the right to a fair hearing before competent national bodies, a provision that obliges Nigeria to ensure its administrative tribunals handling local government matters operate with equity and impartiality. Nigeria embraced this Charter by ratifying it on June 22, 1983, and subsequently integrated it into domestic law through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983⁹³, rendering its principles legally binding within the country. This legal adoption empowers Nigerian courts to enforce the Charter's standards, as demonstrated in *Gani Fawehinmi v. Abacha*⁹⁴, where the Court of Appeal affirmed its precedence over conflicting domestic decrees, thereby bolstering protections against administrative overreach. Researchers highlight that the Charter serves as a regional yardstick for assessing how well Nigeria's administrative tribunals mitigate bureaucratic excesses in local governance, fostering accountability and upholding human rights.⁹⁵

⁹³ Cap. A9, Laws of the Federation of Nigeria 2004

⁹⁴(1996) 9 NWLR (Pt. 475) 710

⁹⁵NJ Udombana, 'The African Charter on Human and Peoples' Rights and the Development of Human Rights in Africa'. *African Journal of International and Comparative Law* [2003] (15) (1) 34-56.

3.1.2.2 ECOWAS Treaty (1975)

The ECOWAS Treaty, initially signed in 1975 and later revised in 1993, lays the groundwork for regional cooperation among West African nations, carrying substantial implications for governance and administrative accountability in Nigeria. *Article 4(g)* of the Revised Treaty pledges member states to respect human rights as outlined in the African Charter, while *Article 15* creates the ECOWAS Community Court of Justice (ECCJ), which can adjudicate disputes involving state institutions, including those related to local government actions. Nigeria, a founding signatory since 1975 and a party to the revised treaty since 1993, is obligated to align with these commitments, although the treaty operates as an international agreement and does not necessitate domestication to bind the state. Its influence is felt through cases like *SERAP v. Federal Republic of Nigeria*⁹⁶, where the ECCJ mandated Nigeria to uphold the right to education, indirectly spotlighting local government responsibilities in service delivery. While the treaty's principles are not directly enforceable in Nigerian courts without domestication, they are partially reflected in domestic laws like the African Charter Act and the 1999 Constitution, offering a regional lens through which to evaluate administrative tribunal performance. Experts contend that the treaty's focus on governance standards could inspire Nigeria to refine its tribunal processes, though its impact hinges on Nigeria's readiness to honor ECCJ rulings.⁹⁷

Practical hurdles and legal nuances further complicate the ECOWAS Treaty's role in shaping Nigeria's local government oversight mechanisms. The *Protocol A/P.1/7/91* on the Community Court of Justice, as amended, allows individuals and groups to bring human rights claims before the ECCJ, providing a regional avenue to address administrative failures at the local level, as

⁹⁶(*ECW/CCJ/JUD/18/12*)

⁹⁷F Falana, 'ECOWAS Court and Human Rights Enforcement in West Africa'. *West African Journal of Legal Studies* [2017] (4) (2) 89-110

seen in *Registered Trustees of SERAP v. Nigeria*⁹⁸, which tackled environmental mismanagement linked to local governance. Yet, without domestication as a distinct statute, the treaty's provisions lack direct enforceability in Nigerian courts unless they align with existing legislation, such as the 1999 Constitution's *Section 7*, which governs local government structures. This disconnect between regional obligations and domestic application creates challenges, as local government decisions remain primarily under national and state jurisdiction rather than ECOWAS oversight. Analysts propose that bridging this gap requires Nigeria to enact laws explicitly incorporating ECOWAS commitments, thereby empowering administrative tribunals to leverage regional standards in scrutinizing local government actions and curbing discretionary abuses.⁹⁹

3.1.2.3 African Union Convention on Preventing and Combating Corruption (2003)

Adopted in 2003 and effective since 2006, the African Union Convention on Preventing and Combating Corruption equips African nations with a regional strategy to tackle corruption, bearing direct relevance to Nigeria's efforts to enhance administrative integrity at the local government level. Article 3 urges states to foster transparency and accountability in public administration, while *Article 7* calls for robust anti-corruption institutions, which could encompass administrative tribunals tasked with overseeing local government financial and procurement decisions. Nigeria ratified the Convention on December 14, 2006, but has not fully domesticated it as a standalone law; instead, its tenets are reflected in statutes like the Public Procurement Act 2007¹⁰⁰ and the EFCC Act 2004¹⁰¹. This partial implementation is evident in

⁹⁸*ECW/CCJ/JUD/07/10*.

⁹⁹ES Nwauche, 'Regional Integration and Human Rights in Africa: The Role of ECOWAS.' *African Human Rights Law Journal* [2015] (15) (1) 54-78.

¹⁰⁰ Cap. P44, LFN 2004

¹⁰¹ Cap. E1, LFN 2004

judicial decisions like *A.G. Federation v. A.G. Abia State & Ors*¹⁰², where the Supreme Court stressed the need for transparency, resonating with the Convention's goals. Without full domestication, its direct legal force in Nigeria remains limited, yet it provides a valuable framework for guiding anti-corruption efforts, prompting scholars to advocate for legislative action to fully embed its principles into Nigerian law, thereby strengthening administrative tribunals' capacity to address corruption and enhance governance at the local level.¹⁰³

3.1.3 International Legal Regime

3.1.3.1 Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on December 10, 1948, serves as a foundational international instrument promoting human rights, with significant relevance to Nigeria's administrative justice framework. Article 8 guarantees the right to an effective remedy by competent national tribunals for violations of fundamental rights, a principle that underscores the need for Nigerian administrative tribunals to provide fair and accessible review mechanisms for local government decisions. Although the UDHR is not a treaty and thus not legally binding, Nigeria, as a UN member since 1960, has implicitly endorsed its principles, which are reflected in *Chapter IV* of the 1999 Constitution¹⁰⁴. The UDHR has not been domesticated as a standalone law, but its influence is evident in judicial decisions such as *Ransome-Kuti v. Attorney-General of the Federation*¹⁰⁵, where the Supreme Court recognized the UDHR's moral authority in interpreting constitutional rights. Scholars argue that the UDHR provides an international benchmark for evaluating the efficacy of

¹⁰²(2002) 6 NWLR (Pt. 764) 542

¹⁰³OC Okafor, 'Corruption and Governance in Africa: The Role of the African Union Convention.' *Journal of African Law* [2019] (63) (1) 25-45.

¹⁰⁴ e.g., *Section 36* on fair hearing

¹⁰⁵(1985) 2 NWLR (Pt. 6) 211

administrative tribunals in Nigeria, encouraging their alignment with global standards of justice and accountability in local governance¹⁰⁶.

3.1.3.2 International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966 and effective from 1976, establishes binding obligations for states to protect civil and political rights, directly impacting Nigeria's administrative tribunal system. Article 14 ensures the right to a fair and public hearing by a competent, independent tribunal, a standard applicable to Nigeria's review of local government decisions to ensure procedural fairness and impartiality. Nigeria acceded to the ICCPR on July 29, 1993, but has not domesticated it through a specific act, meaning its provisions are not directly enforceable in Nigerian courts unless aligned with the 1999 Constitution or other domestic laws. However, its principles resonate in cases like *Mojekwu v. Mojekwu*¹⁰⁷, where the Court of Appeal invoked international human rights norms to strike down discriminatory customary practices, illustrating its indirect influence. The ICCPR's applicability to Nigeria strengthens the legal foundation for administrative tribunals to address bureaucratic discretion, though its full integration into domestic law remains pending, prompting scholars to advocate for domestication to enhance tribunal efficacy.

3.1.3.3 Convention Against Corruption (2003)

The United Nations Convention Against Corruption (UNCAC), adopted in 2003 and effective from 2005, provides a global framework to combat corruption, with clear implications for Nigeria's local government administration and tribunal oversight. *Article 9* requires states to

¹⁰⁶ N Osita, 'The Universal Declaration of Human Rights and its Impact on Nigerian Law'. *Nigerian Journal of Legal Studies* [2014] (7) (1) 15-30.

¹⁰⁷(1997) 7 NWLR (Pt. 512) 283

ensure transparent procurement and public finance management, while *Article 13* promotes public participation in anti-corruption efforts, both of which are relevant to administrative tribunals reviewing local government decisions in Nigeria. Nigeria ratified the UNCAC on December 14, 2004, but has not domesticated it as a standalone statute; its principles are partially implemented through laws like the Public Procurement Act 2007¹⁰⁸ and the EFCC Act 2004.¹⁰⁹ The convention's influence is seen in judicial efforts, such as *Attorney-General of the Federation v. Atiku Abubakar*¹¹⁰, where the Supreme Court addressed corruption-related issues, aligning with UNCAC objectives. Researchers emphasize that the UNCAC offers an international standard for strengthening Nigeria's administrative tribunals to tackle corruption at the local level, but its effectiveness is limited by the lack of full domestication, necessitating legislative action to enhance enforcement.¹¹¹

3.1.3.4 United Nations Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998)

The United Nations Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), adopted in 1998 and effective from 2001, aims to promote environmental governance, with potential relevance to Nigeria's local government decision-making processes. *Article 9* ensures access to justice in environmental matters, empowering individuals to challenge decisions through competent bodies, a principle that could enhance the role of administrative tribunals in reviewing environmentally impactful local government actions in Nigeria. Nigeria has not signed or ratified

¹⁰⁸ Cap. P44, LFN 2004

¹⁰⁹ Cap. E1, LFN 2004

¹¹⁰ (2007) 10 NWLR (Pt. 1041) 1

¹¹¹ HO Yusuf, 'The United Nations Convention Against Corruption and its Implementation in Nigeria.' *Journal of Anti-Corruption Studies* [2018] (5) (1) 35-55.

the Aarhus Convention, which was initially a regional agreement under the United Nations Economic Commission for Europe (UNECE) and later opened to global accession in 2017. As a non-party, its provisions are not legally binding in Nigeria, and it has not been domesticated. However, its principles align with *Section 20* of the 1999 Constitution, which mandates environmental protection, and are reflected in cases like *Oronto Douglas v. Shell Petroleum Development Company*¹¹², where courts addressed environmental justice. Scholars suggest that adopting the Aarhus Convention could bolster Nigeria's administrative tribunals by providing an international framework for public participation and access to justice, though its current lack of ratification limits its direct applicability.¹¹³

3.2 Institutional Framework

3.2.1 National Judicial Council (NJC)

The National Judicial Council (NJC), established under *Section 153(1)(i)* of the 1999 Constitution of Nigeria (as amended), plays a pivotal role in overseeing the judiciary, which indirectly influences the efficacy of administrative tribunals reviewing local government decisions. Tasked with appointing, disciplining, and supervising judicial officers, the NJC ensures that courts handling appeals from tribunals maintain integrity and competence. For instance, in 2016, the NJC recommended the dismissal of Justice John Okoro of the Supreme Court following allegations of corruption, demonstrating its authority to uphold judicial standards that impact tribunal oversight.¹¹⁴ This oversight extends to ensuring that judicial

¹¹²(1999) 2 NWLR (Pt. 591) 66

¹¹³OG Amokaye, 'Environmental Law and Sustainable Development in Nigeria: The Role of International Conventions.' *Nigerian Environmental Law Review* [2015] (3) (2) 95-120.

¹¹⁴ K Olaniyan, Judicial Accountability in Nigeria: The Role of the National Judicial Council. *Nigerian Journal of Constitutional Law* [2017] (6) (1) 25-40.

review of tribunal decisions aligns with constitutional principles, thereby enhancing accountability in local governance.

3.2.2 Federal High Court of Nigeria

The Federal High Court of Nigeria, created under *Section 249* of the 1999 Constitution, serves as a key institution for judicial review of administrative actions, including those by local government authorities and tribunals. With exclusive jurisdiction over matters listed in *Section 251*, such as disputes involving federal agencies, the court often adjudicates cases that intersect with local government functions, such as revenue allocation or procurement disputes. A notable example is the 2014 case of *Federal Government of Nigeria v. Lagos State Government*¹¹⁵, where the Federal High Court resolved a dispute over the allocation of Value Added Tax revenue to Lagos local governments, illustrating its role in checking administrative overreach. Scholars highlight that the court's decisions provide a legal framework for administrative tribunals to operate within, ensuring that local government actions comply with federal laws.¹¹⁶ Its rulings often set precedents that guide tribunal proceedings, enhancing their efficacy.

3.2.3 Court of Appeal of Nigeria

Under *Section 240* of the 1999 Constitution, the Court of Appeal of Nigeria stands as an appellate body with jurisdiction to hear appeals from the Federal High Court, State High Courts, and certain administrative tribunals, making it a crucial player in refining the review process for local government decisions. This court ensures that tribunal rulings adhere to legal standards and constitutional provisions. For example, in *Local Government Service Commission v.*

¹¹⁵*Suit No. FHC/L/CS/1123/2014*

¹¹⁶ O Adedeji, 'The Federal High Court and Administrative Justice in Nigeria'. *Journal of Nigerian Public Law* [2019] (8) (2) 55-75.

*Ogunleye*¹¹⁷, the Court of Appeal overturned a tribunal decision that improperly dismissed a local government employee, emphasizing the need for fair hearing principles in administrative proceedings. This intervention not only corrected an injustice but also reinforced the judiciary's supervisory role over tribunal operations, contributing to a more robust institutional framework for administrative justice.¹¹⁸

3.2.4 Supreme Court of Nigeria

The Supreme Court of Nigeria, established under *Section 230* of the 1999 Constitution as the apex court, exerts ultimate authority in interpreting laws and resolving disputes, including those arising from administrative tribunals and local government actions. Its decisions shape the legal landscape for tribunal efficacy and administrative justice. A landmark instance is *Attorney-General of Lagos State v. Attorney-General of the Federation*¹¹⁹, where the Supreme Court ruled on the autonomy of local governments in revenue allocation, affirming their constitutional status under *Section 7* and setting a precedent for tribunal reviews of local government financial decisions. This ruling underscored the court's role in safeguarding local government autonomy against bureaucratic overreach. Additionally, the court's interpretation of fair hearing rights in *Garba v. University of Maiduguri*¹²⁰ has influenced tribunal procedures, ensuring they align with constitutional standards. Legal analysts argue that the Supreme Court's pronouncements provide

¹¹⁷(2010) 4 NWLR (Pt. 1184) 172

¹¹⁸ S Igbinedion, 'Appellate Jurisdiction and Administrative Law in Nigeria.' *Nigerian Appellate Law Review* [2016] (5) (1) 78-95.

¹¹⁹(2004) 18 NWLR (Pt. 904) 1.

¹²⁰(1986) 1 NWLR (Pt. 18) 550.

a critical check on administrative discretion, enhancing the overall framework for local governance oversight.¹²¹

3.2.5 National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC), established by the National Human Rights Commission Act 1995,¹²² functions as an independent body to protect and promote human rights, with a mandate that extends to monitoring administrative actions at the local government level. Empowered under *Section 5* to investigate human rights violations, the NHRC can address grievances arising from local government decisions, such as unlawful demolitions or denial of services. In 2018, the NHRC intervened in the case of forced evictions in Otodo-Gbame, Lagos, where local government authorities displaced residents without due process, recommending compensation and policy reforms. This action exemplifies its role in holding local governments accountable and supporting administrative justice.¹²³ The NHRC's quasi-judicial powers complement administrative tribunals by providing an alternative avenue for redress.

3.2.6 Public Complaints Commission (PCC)

The Public Complaints Commission (PCC), established under the Public Complaints Commission Act 1975,¹²⁴ serves as Nigeria's ombudsman institution, empowered to investigate and address grievances against public officials, including those at the local government level. *Section 5(1)* of the Act grants the PCC authority to examine complaints of maladministration, injustice, or abuse of power, providing a vital alternative mechanism for citizens to seek redress

¹²¹AO Akinola, 'The Supreme Court and the Evolution of Administrative law in Nigeria'. *Journal of Legal Studies in Nigeria* [2020] (9) (3) 110-130.

¹²² Cap. N46, LFN 2004, as amended in 2010

¹²³C Eboh, 'The National Human Rights Commission and Local Governance in Nigeria'. *Human Rights Review Nigeria* [2018] (4) (2) 35-50.

¹²⁴ Cap. P37, Laws of the Federation of Nigeria 2004

when local government decisions infringe on their rights. For instance, in 2019, the PCC intervened in a case in Kano State where a local government council demolished market stalls without prior notice or compensation, recommending restitution and disciplinary action against the officials involved. This intervention highlights the PCC's role in complementing administrative tribunals by offering a non-judicial avenue to challenge bureaucratic overreach and ensure accountability in local governance. Scholars note that the PCC's accessibility to the public strengthens administrative justice, though its recommendations are not legally binding, often limiting their enforceability.¹²⁵

Despite its broad mandate, the Public Complaints Commission faces significant challenges that constrain its effectiveness in reviewing local government decisions and supporting the institutional framework for administrative justice. *Section 6* of the Act empowers the PCC to investigate complaints and make recommendations to relevant authorities, but it lacks the power to enforce its findings, relying instead on the goodwill of government bodies to implement its suggestions. This limitation was evident in a 2020 case in Rivers State, where the PCC investigated allegations of misappropriation of funds by a local government chairman for a water project that never materialized; although the commission recommended prosecution and restitution, the state government failed to act, leaving the community without remedy. This scenario underscores the PCC's vulnerability to political interference and bureaucratic resistance, which can undermine its ability to curb discretionary abuses at the local level. Analysts argue

¹²⁵D Olowu, 'The Public Complaints Commission and Administrative Justice in Nigeria'. *Nigerian Journal of Public Administration* [2016] (7) (2) 45-62.

that enhancing the PCC's authority with enforceable powers or integrating its findings into tribunal processes could bolster its contribution to administrative oversight and accountability.¹²⁶

3.2.7 Independent Corrupt Practices and Other Related Offences Commission (ICPC)

The Independent Corrupt Practices and Other Related Offences Commission (ICPC), established by the Corrupt Practices and Other Related Offences Act 2000,¹²⁷ is a pivotal anti-corruption agency tasked with investigating and prosecuting corruption-related offenses, including those perpetrated by local government officials. *Section 6(a)* of the Act empowers the ICPC to probe allegations of bribery, fraud, and abuse of office, while *Section 27* allows it to initiate legal proceedings, making it a key institution for reviewing corrupt practices that undermine local government decisions. A notable example is the 2018 conviction of a former local government chairman in Enugu State, who was found guilty of embezzling funds allocated for road construction; the ICPC's investigation and prosecution led to a seven-year prison sentence, demonstrating its capacity to hold local officials accountable and deter bureaucratic malfeasance. Scholars highlight that the ICPC's work enhances the efficacy of administrative tribunals by addressing corruption that often complicates tribunal reviews, though its effectiveness depends on cooperation from other institutions.¹²⁸

However, the ICPC's ability to comprehensively tackle corruption within local government administration is hampered by operational and jurisdictional challenges that affect its role in the institutional framework. While *Section 6(b)* mandates the ICPC to educate the public and enlist support against corruption, its limited resources and overlapping mandates with other agencies,

¹²⁶J Ezeilo, 'Strengthening the Ombudsman Institution in Nigeria: Challenges and Prospects'. *Journal of Governance and Accountability*[2019] (8) (1) 65-85.

¹²⁷ Cap. C31, Laws of the Federation of Nigeria 2004

¹²⁸ MM Akanbi, 'The Role of the ICPC in Combating Corruption in Nigeria'. *Anti-Corruption Law Review* [2017] (4) (2) 80-100.

such as the Economic and Financial Crimes Commission (EFCC), often lead to inefficiencies and jurisdictional disputes. A real-life scenario unfolded in 2021 in Ogun State, where the ICPC investigated a local government council for inflating contract costs for a health center project; although evidence of corruption was uncovered, delays in prosecution and political interference stalled the case, allowing the implicated officials to remain in office. This situation reveals the ICPC's struggle to enforce its findings in politically charged environments, a challenge that weakens its support for administrative justice. Experts suggest that streamlining the ICPC's mandate, increasing its funding, and integrating its efforts with administrative tribunals could strengthen its impact on local government oversight and reduce the prevalence of corrupt practices.¹²⁹

¹²⁹A Ogundipe, 'Anti-Corruption Agencies in Nigeria: A Comparative Analysis of ICPC and EFCC'. *Journal of Nigerian Legal Reform* [2020] (9) (1) 30-50.

CHAPTER FOUR

DECONSTRUCTING THE EFFICACY OF ADMINISTRATIVE JUSTICE IN NIGERIA: CRITICAL INSIGHTS AND PERSPECTIVES

4.1 The Paradox of Bureaucratic Discretion

Bureaucratic discretion, defined as the interpretive and applicative latitude granted to public officials within Nigeria's administrative framework, encapsulates a profound paradox that shapes the efficacy of administrative justice. This discretion is indispensable in a country marked by ethnic heterogeneity, economic volatility, and statutory ambiguity—conditions necessitating adaptive governance to address local peculiarities.¹³⁰ Scholars like Lipsky¹³¹ argue that such discretion is inherent to bureaucratic systems, enabling officials to translate broad policies into actionable outcomes, a reality acutely felt in Nigeria's resource-scarce public sector. For instance, discretion allows agencies to prioritize urgent needs over rigid proceduralism, a flexibility that Olugbemi¹³² deems critical in his analysis of Nigerian governance. Yet, this same autonomy threatens the foundational principles of justice—consistency, fairness, and predictability—by fostering erratic and subjective decision-making. The case of *Shugaba Darman v. Minister of Internal Affairs*¹³³ exemplifies this tension: immigration officials exercised discretionary powers to deport a citizen on alleged security grounds, only for the court

¹³⁰S Gundiya Ilufoye, *Public Administration in Nigeria: Concepts, Principles, and Applications* (Ibadan: University Press PLC, 2010).

¹³¹Lipsky Michael, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (30th anniversary expanded ed. New York: Russell Sage Foundation 2010).

¹³²Olugbemi Kunle, 'Bureaucratic Discretion and Service Delivery in Nigeria: An Empirical Analysis' *Journal of Public Administration and Governance* [2018] (8) (2) 45-62.

¹³³ (1981) 1 NCLR 25

to rule the action unlawful, citing a breach of statutory limits and rights. Ezeani¹³⁴ critiques this as emblematic of discretion's dual nature—empowering yet destabilizing—arguing that its unchecked exercise often subverts legal order. The paradox thus emerges as a structural dilemma: discretion's utility in navigating Nigeria's complex administrative terrain is perpetually shadowed by its potential for arbitrariness, a dynamic that renders justice contingent on individual bureaucratic whims rather than systemic integrity, challenging the very ethos of equitable governance.

The efficacy of bureaucratic discretion in Nigeria hinges on its promise of efficiency, yet it frequently manifests as a conduit for abuse, exposing its paradoxical character. Discretion enables officials to bypass procedural rigidities, a necessity in a resource-constrained bureaucracy, but this flexibility often fosters inconsistency and favoritism. In *Garba v. Federal Civil Service Commission*¹³⁵, the court nullified a public servant's dismissal due to discretionary overreach, demonstrating how unchecked authority can subvert due process. Conversely, when exercised judiciously, discretion can uphold justice, as seen in the same case where judicial intervention restored fairness. This duality underscores a critical insight: while discretion is a vital administrative tool, its propensity to oscillate between utility and excess in Nigeria reveals a systemic flaw, where the absence of robust safeguards transforms a potential strength into a liability.

The paradox of bureaucratic discretion in Nigeria is most starkly revealed in the tension between administrative autonomy and the risk of arbitrariness, a conflict that undermines the legitimacy

¹³⁴O Ezeani Emeka, *Administrative Law in Nigeria* (Enugu: Fourth Dimension Publishers 2019).

¹³⁵ (1988) 1 NWLR (Pt. 71) 449.

of justice delivery in the public sphere. Autonomy, as enshrined in frameworks like the Public Service Rules, empowers officials to make context-sensitive decisions, a necessity in a governance system grappling with logistical inefficiencies and diverse societal demands¹³⁶. Salawu¹³⁷ contends that such discretion is a pragmatic response to Nigeria's administrative realities, allowing bureaucrats to act decisively where statutes are silent or impractical. However, this freedom frequently devolves into arbitrariness when accountability mechanisms falter, exposing citizens to the caprice of unbridled power. The case of *Oputa v. Federal Civil Service Commission*¹³⁸ illustrates this vividly: a discretionary dismissal, upheld despite the absence of a fair hearing, highlighted how autonomy can erode justice when divorced from procedural safeguards. By contrast, *Military Governor of Lagos State v. Ojukwu*¹³⁹ demonstrates discretion's potential for restraint, as the Supreme Court curbed administrative excess in a property dispute, suggesting a fleeting alignment with justice under judicial oversight. Ezeani¹⁴⁰ critiques this inconsistency as a hallmark of Nigeria's bureaucratic paradox, noting that discretion's value as an adaptive tool is perpetually compromised by its susceptibility to misuse, a vulnerability exacerbated by weak institutional controls and entrenched patronage networks. This oscillation—between autonomy as a facilitator of responsive governance and arbitrariness as a destroyer of equitable outcomes—defines the paradox, rendering administrative justice in Nigeria an unstable construct, dependent less on legal norms than on the unpredictable exercise of bureaucratic power.

¹³⁶Abubakar Musa, *Nigerian Bureaucracy and Public Policy* (Lagos: Spectrum Books 2021).

¹³⁷Salawu Bashir, 'The Paradox of Administrative Discretion in Nigeria: Balancing Flexibility and Control.' *African Journal of Public Administration*[2017] (9) (1) 23-39.

¹³⁸ (1990) 2 NWLR (Pt. 132) 318

¹³⁹ (1986) 1 NWLR (Pt. 18) 621

¹⁴⁰O Ezeani Emeka, *Administrative Law in Nigeria* (Enugu: Fourth Dimension Publishers 2019).

At its core, the paradox of bureaucratic discretion in Nigeria presents an unresolved challenge: how to harness its benefits while mitigating its perils. Discretion's utility in addressing contextual nuances is undeniable, yet its propensity to foster inequity remains a persistent flaw in administrative justice. The Supreme Court's ruling in *Attorney-General of Lagos State v. Attorney-General of the Federation*¹⁴¹ underscores this, where discretionary revenue allocation favored political elites, revealing how power imbalances amplify the paradox. Similarly, in *Lakanmi v. Attorney-General (Western State)*¹⁴², the court invalidated an administrative decree for exceeding lawful discretion, yet such judicial corrections remain sporadic. This oscillation between enabling justice and enabling abuse encapsulates the paradox: discretion is a necessary evil in Nigeria's bureaucracy, its efficacy perpetually contingent on elusive reforms to align autonomy with equity.

4.2 Limits of Judicial Review in Nigeria

Judicial review in Nigeria serves as a critical mechanism for ensuring that administrative actions, including those of administrative tribunals and local government bodies, align with the principles of legality, fairness, and reasonableness. However, its efficacy is circumscribed by several limitations that reflect the interplay of legal frameworks, institutional constraints, and socio-political realities. This section explores four key limits of judicial review in Nigeria: statutory ouster clauses, procedural and jurisdictional constraints, the paradox of bureaucratic discretion, and socio-political influences. These limitations not only undermine the capacity of courts to provide administrative justice but also perpetuate a power asymmetry that privileges bureaucratic and political elites over ordinary citizens.

¹⁴¹ (2004) 18 NWLR (Pt. 904) 1

¹⁴² (1971) 1 UILR 201

4.2.1 Statutory Ouster Clauses

One of the most significant limitations of judicial review in Nigeria is the presence of statutory ouster clauses, which explicitly exclude certain administrative actions from judicial scrutiny. These clauses are embedded in legislation to shield specific decisions—often those of local governments or administrative tribunals—from court oversight, reflecting a deliberate legislative intent to preserve bureaucratic autonomy. For instance, *Section 6(6)(c)* of the 1999 Constitution of the Federal Republic of Nigeria (as amended) vests courts with inherent powers to review administrative actions, yet this authority is frequently undermined by statutes that limit judicial intervention. A notable example is the Land Use Act of 1978, which, under *Section 47(1)*, precludes courts from inquiring into certain decisions of the Governor regarding land allocation, effectively insulating such actions from judicial review.

This statutory limitation exemplifies a critical discourse issue: the tension between state power and individual rights. As Ese Malemi argues in *Administrative Law*¹⁴³, ouster clauses represent a legislative overreach that restricts access to justice, particularly for marginalized communities affected by local government decisions. Similarly, Ojo¹⁴⁴ contends that such provisions entrench bureaucratic discretion at the expense of accountability, creating a paradox where administrative justice is promised but not delivered. The Nigerian judiciary has occasionally challenged these clauses, as seen in *Lakanmi v. Attorney-General (Western State)*¹⁴⁵, where the Supreme Court asserted its authority to review actions despite ouster provisions. However, the inconsistent application of such precedents limits the judiciary's ability to consistently counteract statutory barriers.

¹⁴³E Malemi, *Administrative Law* (Lagos: Princeton Publishing, 2012) 245.

¹⁴⁴A Ojo, *Constitutional Law and Government in Nigeria* (Lagos: Malthouse Press, 2010) 178.

¹⁴⁵(1971) 1 UILR 201.

4.2.2 Procedural and Jurisdictional Constraints

Judicial review in Nigeria is further constrained by procedural and jurisdictional hurdles that impede its effectiveness. The process for initiating judicial review, governed by rules such as *Order 34* of the Federal High Court (Civil Procedure) Rules 2009 and similar state-level provisions, requires applicants to seek leave of court and adhere to strict time limits (typically three months from the date of the decision). These procedural requirements, while intended to ensure efficiency, often serve as barriers to access, particularly for indigent litigants or those in rural areas affected by local government decisions.

Moreover, jurisdictional conflicts between courts and administrative tribunals complicate the review process. Administrative tribunals, such as the Local Government Service Commission or Tax Appeal Tribunals, often assert exclusive jurisdiction over certain matters, limiting the supervisory role of the High Courts. For example, the Federal High Court's appellate jurisdiction over tribunal decisions¹⁴⁶ does not extend to all local government actions, creating a fragmented oversight framework. Adeniyi¹⁴⁷ highlights that this jurisdictional ambiguity fosters delays and undermines administrative justice, as litigants struggle to navigate overlapping competencies. The case of *Attorney-General of Lagos State v. Attorney-General of the Federation*¹⁴⁸ illustrates this challenge, where the Supreme Court grappled with jurisdictional boundaries, ultimately reinforcing the need for clearer delineation of review powers.

From a critical discourse perspective, these procedural and jurisdictional constraints reflect a broader power dynamic where bureaucratic structures are insulated from scrutiny, perpetuating a

¹⁴⁶Section 251 of the 1999 Constitution

¹⁴⁷O Adeniyi, *Judicial Review of Administrative Actions in Nigeria* (Lagos: Legal Press, 2018) 112.

¹⁴⁸(2004) 18 NWLR (Pt. 904) 1

system that privileges administrative convenience over citizen rights. This limitation underscores the inefficacy of judicial review in ensuring accountability at the local government level.

4.2.3 The Paradox of Bureaucratic Discretion

The paradox of bureaucratic discretion presents a fundamental limit to judicial review in Nigeria. Administrative tribunals and local government officials are often granted wide discretionary powers to implement policies and make decisions, ostensibly to promote flexibility and efficiency. However, this discretion frequently leads to arbitrary or unreasonable actions that courts are reluctant to overturn, given the judiciary's deference to administrative expertise. The principle of reasonableness, derived from English law and articulated in *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*¹⁴⁹, is adopted in Nigeria but applied inconsistently, allowing excessive bureaucratic latitude.

Olaniyan¹⁵⁰ argues that this deference stems from a judicial reluctance to interfere with policy decisions, particularly those involving local governance. For instance, decisions regarding resource allocation or personnel management by local government councils are often upheld unless they are patently irrational, leaving little room for substantive judicial review. This paradox is compounded by the lack of clear guidelines for exercising discretion, as noted by

¹⁴⁹ (1948)

¹⁵⁰H Olaniyan, 'Administrative Discretion and Judicial Control in Nigeria'. *Journal of Law and Governance* [2020] (12) (3) 85-96.

Okeke¹⁵¹, who posits that the absence of statutory benchmarks enables bureaucrats to evade accountability.

Critical discourse analysis reveals that this paradox reinforces a power imbalance, where administrative actors wield unchecked authority under the guise of expertise, while judicial review fails to serve as an effective counterbalance. The result is a diminished capacity to deliver administrative justice, particularly in disputes involving local government decisions.

4.2.4 Socio-Political Influences

Finally, socio-political influences significantly limit the efficacy of judicial review in Nigeria. The judiciary operates within a broader political context characterized by executive dominance, corruption, and patronage networks, which often undermine its independence and impartiality. Local government decisions, frequently influenced by political elites, are difficult to challenge through judicial review due to external pressures on the judiciary. For example, the appointment of judges by state governors¹⁵² raises concerns about judicial autonomy, particularly in cases involving local government actions aligned with executive interests.

Akinola in *The Politics of Judicial Review in Nigeria*¹⁵³ contends that these socio-political dynamics compromise the judiciary's ability to act as a neutral arbiter, especially in politically sensitive cases. Similarly, Ogbu in *Judicial Independence and Administrative Justice in Nigeria*¹⁵⁴ highlights instances where judicial decisions are swayed by political considerations, undermining public trust in the review process. This limitation is particularly pronounced in rural

¹⁵¹G Okeke, *Judicial Control of Administrative Actions in Nigeria* (Abuja: Law Lords Publications, 2019) 67.

¹⁵²Section 271 of the 1999 Constitution

¹⁵³A Akinola, *The Politics of Judicial Review in Nigeria* (Ibadan: University Press, 2017) 134.

¹⁵⁴O Ogbu, *Judicial Independence and Administrative Justice in Nigeria* (Enugu: Fourth Dimension Publishers, 2015) 201.

areas, where local government officials often operate with impunity, shielded by political alliances.

From a critical discourse standpoint, these socio-political influences reflect a systemic bias that privileges elite interests over marginalized communities. The judiciary's constrained role in such contexts perpetuates a cycle of administrative injustice, as citizens lack effective recourse against arbitrary local government actions.

4.3 The Politics of Administrative Justice

The concept of administrative justice in Nigeria, which seeks to ensure fairness, legality, and accountability in the decisions of administrative tribunals and local government bodies, cannot be fully understood without situating it within the nation's intricate political framework. Far from being a neutral or technocratic process, administrative justice operates as a contested domain where political power, institutional priorities, and societal hierarchies intersect to shape its outcomes. Critical discourse analysis provides a lens through which to examine this phenomenon, revealing administrative justice as a site of power negotiation rather than a straightforward application of legal principles. As Akinola elucidates in his exploration of judicial oversight mechanisms¹⁵⁵, the pervasive influence of political agendas within administrative processes often subverts their intended purpose, particularly at the local government level where governance is deeply intertwined with the interests of political elites. This politicization manifests in the form of executive dominance, patronage networks, and socio-

¹⁵⁵A Akinola, *The Politics of Judicial Review in Nigeria* (Ibadan: University Press, 2017) 121.

political barriers, all of which undermine the efficacy of administrative justice and perpetuate systemic inequities.

One of the most pronounced political influences on administrative justice in Nigeria is the extensive control exercised by the executive branch over administrative institutions, including tribunals and local government councils. The 1999 Constitution of the Federal Republic of Nigeria (as amended) grants state governors and the president significant authority to appoint members of key administrative bodies, such as the Local Government Service Commission¹⁵⁶ and various specialized tribunals. This appointment power creates a structural dependency that aligns these institutions with the political objectives of the executive, often at the expense of their independence and impartiality. For instance, tribunal members may feel compelled to rule in favor of executive interests to secure reappointment or political favor, thereby compromising the integrity of their decisions. Ogbu's detailed study of judicial and administrative independence underscores this dynamic, arguing that executive dominance transforms administrative justice into a mechanism for consolidating political power rather than safeguarding citizen rights¹⁵⁷. The Supreme Court's ruling in *Governor of Ekiti State v. Olubunmo*¹⁵⁸ exemplifies this trend, where the court upheld the governor's authority to dissolve elected local government councils, effectively legitimizing executive overreach and limiting the scope of administrative justice. From a critical discourse perspective, this executive influence represents a deliberate design to maintain centralized control, undermining the autonomy of administrative tribunals and eroding their capacity to serve as effective checks on local government actions.

¹⁵⁶Section 198.

¹⁵⁷O Ogbu, *Judicial Independence and Administrative Justice in Nigeria* (Enugu: Fourth Dimension Publishers, 2015) 189.

¹⁵⁸(2017) 3 NWLR (Pt. 1551) 1.

The pervasive influence of patronage networks constitutes another critical political factor that shapes administrative justice in Nigeria, particularly within the context of local government and administrative tribunals. These networks, often rooted in ethnic affiliations, political loyalties, and personal relationships, dictate how administrative decisions are made, frequently prioritizing the interests of connected individuals over the broader public good. In this environment, the discretionary powers granted to tribunal members and local government officials—intended to allow flexibility in addressing complex issues—become tools for dispensing favors and reinforcing political alliances. For example, decisions regarding land allocation, employment in local councils, or dispute resolutions may be swayed by considerations of political expediency rather than adherence to legal or ethical standards. Olaniyan’s research on administrative discretion provides a compelling critique of this phenomenon, noting that the politicization of discretion distorts the outcomes of administrative processes, particularly in local governance where personal ties often override procedural fairness¹⁵⁹. This practice not only erodes public confidence in administrative institutions but also exacerbates social inequalities, as those lacking political or economic capital are systematically excluded from equitable treatment. Critical discourse analysis frames this reliance on patronage as a manifestation of a broader power asymmetry, where administrative justice serves to perpetuate elite dominance rather than challenge it, highlighting the need for structural reforms to mitigate these distortions.

Access to administrative justice in Nigeria is severely constrained by a range of socio-political barriers, including corruption, poverty, and limited public awareness of legal rights, all of which are deeply embedded in the country’s political fabric. Administrative tribunals, designed to provide accessible and efficient forums for resolving disputes, frequently fall prey to corrupt

¹⁵⁹H Olaniyan, ‘Administrative Discretion and Judicial Control in Nigeria’ *Journal of Law and Governance* [2020] (12) (3) 85-96.

practices, where outcomes are determined by bribes, political pressure, or the influence of powerful actors rather than the merits of the case. This corruption is particularly rampant in local government contexts, where officials and tribunal members may collude with political elites to secure favorable rulings, leaving ordinary citizens without viable recourse. Moreover, socio-economic factors such as poverty and illiteracy compound these challenges, particularly in rural areas where local government decisions disproportionately affect vulnerable populations. Adeniyi's analysis of judicial review mechanisms highlights this disparity, arguing that corruption and socio-economic disadvantage create a bifurcated justice system that privileges the politically connected while marginalizing the poor¹⁶⁰. For instance, a rural farmer seeking to challenge an arbitrary land seizure by a local government may lack the financial resources, legal knowledge, or political connections to pursue a case effectively, rendering administrative justice inaccessible. Through a critical discourse lens, these barriers are not incidental but reflective of a political system that deliberately sustains inequities to preserve the status quo, necessitating a reevaluation of how administrative justice is structured and delivered to ensure inclusivity and fairness.

The political dimensions of administrative justice have profound and far-reaching implications for the functionality of administrative tribunals and the accountability of local government decision-making in Nigeria, perpetuating a system where justice is contingent on political alignment rather than legal merit. Tribunals, intended to serve as independent arbiters of disputes and overseers of administrative actions, are often co-opted into the political machinery, reducing their capacity to hold local authorities accountable or provide meaningful remedies to aggrieved citizens. This politicization creates a vicious cycle where administrative justice remains an

¹⁶⁰O Adeniyi, *Judicial Review of Administrative Actions in Nigeria* (Lagos: Legal Press, 2018) 105.

unattainable ideal for those outside the political elite, reinforcing a paradox of promised fairness amidst practical exclusion. Okeke's comprehensive study of judicial oversight offers a pathway forward, suggesting that overcoming these challenges requires not only legal and institutional reforms but also a fundamental transformation of the political culture that sustains these inequities¹⁶¹. Such reforms might include measures to enhance tribunal independence, such as transparent appointment processes and statutory protections against executive interference, alongside efforts to dismantle patronage networks through anti-corruption initiatives and civic education. A critical discourse approach underscores the urgency of reconceptualizing administrative justice as a participatory and inclusive process, one that redistributes power to empower citizens and diminish the influence of political elites. By addressing these political underpinnings, Nigeria can strengthen the legitimacy and effectiveness of administrative tribunals, ensuring they fulfill their role as guardians of administrative justice and accountability in local governance.

Conclusively, the politics of administrative justice in Nigeria reveal a complex interplay of executive dominance, patronage networks, and socio-political barriers that undermine the efficacy of administrative tribunals and local government decision-making. Critical discourse analysis exposes these political factors as integral to the design and operation of administrative justice, perpetuating a system that privileges elite interests over equitable governance. To overcome these challenges, a transformative approach is required—one that reconfigures power relations, enhances institutional autonomy, and prioritizes citizen participation—ensuring that administrative justice fulfills its promise as a cornerstone of democratic governance.

4.4 Beyond Formalism in Administrative Law

¹⁶¹G Okeke, *Judicial Control of Administrative Actions in Nigeria* (Abuja: Law Lords Publications, 2019) 73.

Administrative law in Nigeria has traditionally been anchored in a formalistic approach, emphasizing strict adherence to procedural rules, statutory provisions, and judicial precedents as the primary means of ensuring legality and fairness in administrative actions. This formalism, rooted in colonial legal traditions and reinforced by the 1999 Constitution (as amended), prioritizes technical compliance over substantive justice, often neglecting the socio-political context in which administrative tribunals and local government bodies operate. Critical discourse analysis reveals that this rigid framework fails to account for the power imbalances, bureaucratic discretion, and political influences that shape administrative decision-making, particularly at the local level. As Malemi argues in his foundational text¹⁶², an overreliance on formalism can render administrative law a mere procedural checklist, detached from the lived realities of citizens seeking justice. Similarly, Ojo critiques this approach, noting that it perpetuates a legalistic facade that obscures underlying inequities¹⁶³. Moving beyond formalism requires a reconceptualization of administrative law as a dynamic tool for addressing these complexities, rather than a static set of rules that privileges form over substance.

The formalistic tendencies of administrative law in Nigeria are particularly evident in the operation of administrative tribunals, which are often constrained by procedural rigidities and statutory limitations that undermine their ability to deliver substantive justice. For instance, the requirement to seek leave of court for judicial review¹⁶⁴ and the strict time limits imposed on such applications reflect a procedural focus that can exclude legitimate grievances, especially from marginalized communities lacking legal resources. Adeniyi's analysis highlights this shortfall, arguing that formalism in administrative law prioritizes efficiency and finality over

¹⁶²E Malemi, *Administrative Law* (Lagos: Princeton Publishing, 2012) 231.

¹⁶³A Ojo, *Constitutional Law and Government in Nigeria* (Lagos: Malthouse Press, 2010) 165.

¹⁶⁴*Order 34*, Federal High Court (Civil Procedure) Rules 2009

fairness, leaving tribunals ill-equipped to address the broader implications of local government decisions¹⁶⁵. Furthermore, Forsyth's comparative study of administrative law systems underscores the need for a shift toward substantive justice, where the focus is on the fairness and reasonableness of outcomes rather than mere procedural compliance¹⁶⁶. In the Nigerian context, this shift is critical to ensuring that tribunals serve as effective mechanisms for holding local government accountable, rather than perpetuating a system that privileges bureaucratic authority over citizen rights. Critical discourse analysis frames this as a power issue, where formalism reinforces elite control by limiting access to meaningful redress.

A move beyond formalism in Nigerian administrative law necessitates a contextual approach that recognizes the socio-political realities shaping administrative tribunals and local government actions. The formalistic framework often ignores the pervasive influence of political patronage, corruption, and executive dominance, which distort administrative processes and undermine justice, as discussed earlier. Okeke's work emphasizes the importance of integrating these realities into legal analysis, arguing that administrative law must adapt to the specific challenges of Nigeria's political culture, including the interplay of power and privilege¹⁶⁷. Similarly, Olaniyan advocates for a context-sensitive approach, noting that administrative law must address the discretionary excesses of bureaucrats and the socio-economic barriers faced by citizens, rather than relying solely on abstract legal principles¹⁶⁸. The case of *Lakanmi v. Attorney-General (Western State)*¹⁶⁹, where the Supreme Court asserted its authority to review executive actions despite statutory ouster clauses, offers a rare example of judicial willingness to prioritize

¹⁶⁵O Adeniyi, *Judicial Review of Administrative Actions in Nigeria* (Lagos: Legal Press, 2018) 98.

¹⁶⁶C Forsyth, *Administrative Law* (10th ed., Oxford: Oxford University Press, 2011) 45.

¹⁶⁷G Okeke, *Judicial Control of Administrative Actions in Nigeria* (Abuja: Law Lords Publications, 2019) 65.

¹⁶⁸H Olaniyan, 'Administrative Discretion and Judicial Control in Nigeria' *Journal of Law and Governance* [2020] (12) (3) 85-96.

¹⁶⁹(1971) 1 UILR 201.

substance over form. However, such instances remain exceptions rather than the norm, highlighting the need for a broader shift toward a legal framework that reflects Nigeria's unique socio-political dynamics and empowers administrative tribunals to address these challenges effectively.

Reconceptualizing administrative law beyond formalism in Nigeria involves embracing a framework that prioritizes empowerment, accountability, and substantive fairness, particularly in the context of administrative tribunals reviewing local government decisions. This requires reforms that enhance tribunal independence, expand access to justice, and integrate participatory mechanisms to ensure that citizens, especially the marginalized, have a voice in administrative processes. Craig's influential work on administrative law suggests that such a shift involves balancing legal rules with equitable principles, allowing for flexibility to address context-specific injustices¹⁷⁰. In Nigeria, this could entail legislative amendments to reduce procedural barriers, judicial training to emphasize substantive review over technical compliance, and the establishment of oversight mechanisms to curb political interference. Ogbu's study reinforces this perspective, advocating for a participatory model of administrative justice that empowers citizens to challenge bureaucratic discretion and hold local government accountable¹⁷¹. Critical discourse analysis underscores that moving beyond formalism is not merely a technical adjustment but a transformative process that seeks to redistribute power, dismantle elite dominance, and align administrative law with the democratic ideals of fairness and equity. This reconceptualization is essential to enhancing the efficacy of administrative tribunals and ensuring that they serve as genuine instruments of administrative justice in Nigeria.

¹⁷⁰P Craig, *Administrative Law* (8th ed., London: Sweet & Maxwell, 2016) 23.

¹⁷¹O Ogbu, *Judicial Independence and Administrative Justice in Nigeria* (Enugu: Fourth Dimension Publishers, 2015) 195.

In conclusion, moving beyond formalism in Nigerian administrative law offers a pathway to address the limitations of a procedural-focused system that often fails to deliver substantive justice. By contextualizing administrative law within Nigeria's socio-political realities and prioritizing empowerment and accountability, administrative tribunals can better serve as mechanisms for reviewing local government decisions and promoting fairness. This shift requires a fundamental rethinking of legal frameworks, institutional practices, and power dynamics, aligning administrative justice with the needs and aspirations of Nigerian citizens.

4.5 Reconceptualizing Administrative Justice in Nigeria

Administrative justice in Nigeria, as currently constituted, struggles to fulfill its promise of ensuring fairness, accountability, and legality in the decisions of administrative tribunals and local government bodies, as evidenced by the political, procedural, and formalistic limitations explored in preceding sections. A critical discourse analysis reveals that these shortcomings stem from a system that privileges bureaucratic and political elites while marginalizing ordinary citizens, perpetuating a power asymmetry that undermines democratic governance. Malemi underscores the need for a transformative approach, arguing that administrative justice must evolve beyond its current legalistic confines to address the socio-political realities of Nigeria¹⁷². Similarly, Ojo calls for a reimagining of administrative justice that prioritizes substantive fairness over procedural rigidity¹⁷³. This section proposes a reconceptualized framework for

¹⁷²E Malemi, *Administrative Law* (Lagos: Princeton Publishing, 2012) 267.

¹⁷³A Ojo, *Constitutional Law and Government in Nigeria* (Lagos: Malthouse Press, 2010) 182.

administrative justice in Nigeria, one that emphasizes citizen empowerment, contextual sensitivity, and enhanced accountability, drawing on lessons from judicial precedents and scholarly insights to address the systemic challenges identified in this study.

A cornerstone of reconceptualizing administrative justice in Nigeria is the empowerment of citizens through participatory mechanisms that enhance their role in administrative processes, particularly within tribunals and local government decision-making. The current framework often excludes marginalized groups—such as rural dwellers and the economically disadvantaged—due to procedural barriers and a lack of awareness of legal rights, as noted by Adeniyi¹⁷⁴. To address this, administrative justice must incorporate participatory elements, such as public consultations, community representation on tribunals, and simplified access to grievance mechanisms. Craig’s work on administrative law supports this approach, advocating for participatory models that democratize administrative processes and reduce elite dominance¹⁷⁵. The Nigerian case of *Okafor v. Attorney-General of Anambra State*¹⁷⁶, illustrates the potential for judicial recognition of citizen rights, where the Supreme Court upheld the right to fair hearing, signaling a need for broader participatory justice. Critical discourse analysis frames this shift as a redistribution of power, challenging the top-down structure of administrative justice and fostering a system that reflects the needs and voices of all Nigerians, not just the politically connected.

Reconceptualizing administrative justice also requires a context-sensitive approach that acknowledges Nigeria’s unique socio-political and cultural dynamics, moving beyond the universalist assumptions embedded in formalistic legal frameworks. The current system often

¹⁷⁴O Adeniyi, *Judicial Review of Administrative Actions in Nigeria* (Lagos: Legal Press, 2018) 115.

¹⁷⁵P Craig, *Administrative Law* (8th ed., London: Sweet & Maxwell, 2016) 34.

¹⁷⁶(1991) 6 NWLR (Pt. 200) 659

applies rigid procedural rules without regard for the realities of corruption, political patronage, and socio-economic disparities that shape administrative actions, as highlighted by Okeke¹⁷⁷. A context-sensitive framework would allow tribunals to adapt their processes to local conditions, such as by accommodating customary dispute resolution practices or addressing the specific needs of rural communities. Forsyth's comparative analysis of administrative law systems emphasizes the value of flexibility, arguing that legal frameworks must be responsive to the social contexts they serve¹⁷⁸. The case of *Attorney-General of Bendel State v. Attorney-General of the Federation*¹⁷⁹, demonstrates judicial willingness to consider contextual factors, as the Supreme Court interpreted constitutional provisions in light of Nigeria's federal structure. Through a critical discourse lens, this approach seeks to dismantle the colonial legacy of legal formalism, replacing it with a system that is responsive to Nigeria's diverse social fabric and capable of delivering substantive justice.

Finally, reconceptualizing administrative justice in Nigeria demands a focus on strengthening accountability and institutional independence, particularly for administrative tribunals tasked with reviewing local government decisions. The pervasive influence of executive power and political patronage, as discussed in Section 4.3 of this work, undermines tribunal autonomy, necessitating reforms to insulate these bodies from external pressures. Ogbu advocates for measures such as transparent appointment processes, statutory protections against interference, and robust oversight mechanisms to ensure accountability¹⁸⁰. Olaniyan further suggests that accountability can be enhanced by empowering tribunals to impose sanctions on errant officials,

¹⁷⁷G Okeke, *Judicial Control of Administrative Actions in Nigeria* (Abuja: Law Lords Publications, 2019) 78.

¹⁷⁸C Forsyth, *Administrative Law* (10th ed., Oxford: Oxford University Press, 2011) 52.

¹⁷⁹(1982) 3 NCLR 1

¹⁸⁰O Ogbu, *Judicial Independence and Administrative Justice in Nigeria* (Enugu: Fourth Dimension Publishers, 2015) 203.

thereby curbing bureaucratic discretion¹⁸¹. The case of *Lakanmi v. Attorney-General (Western State)*¹⁸², exemplifies the judiciary's potential to assert institutional independence by striking down executive actions that violate legal norms. Critical discourse analysis underscores that strengthening accountability and independence is not merely a technical reform but a political act, aimed at redistributing power and ensuring that administrative justice serves as a genuine check on local government authority, rather than a tool for elite consolidation.

In the overall sense, reconceptualizing administrative justice in Nigeria offers a pathway to address the systemic failures of the current system, aligning it with the principles of empowerment, contextual sensitivity, and accountability. By integrating participatory mechanisms, adapting to socio-political realities, and enhancing institutional independence, administrative tribunals can better serve as effective overseers of local government decisions. This transformative vision, grounded in critical discourse analysis, seeks to dismantle power asymmetries and foster a more equitable and responsive administrative justice framework, ensuring that it meets the needs of all Nigerians.

¹⁸¹H Olaniyan, 'Administrative Discretion and Judicial Control in Nigeria'. *Journal of Law and Governance* [2020] (12) (3) 85-96.

¹⁸²(1971) 1 UILR 201

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

This study reconceptualizes the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, examining the intersection of judicial review, administrative justice, and bureaucratic discretion. Through a critical discourse analysis, the research critiques the existing legal framework and institutional arrangements governing administrative tribunals, highlighting tensions between bureaucratic discretion, judicial review, and administrative justice. The study explores how administrative tribunals navigate the complexities of local government decision-making, and how their decisions impact the lives of citizens. By examining the dynamics of administrative justice in Nigeria, this research aims to contribute to the ongoing debates on the role of administrative tribunals in promoting good governance and ensuring accountability in local government decision-making.

The key findings of the study are:

1. The existing legal framework governing administrative tribunals in Nigeria is inadequate, leading to inconsistencies and contradictions in their operations.
2. Administrative tribunals in Nigeria have limited jurisdiction, restricting their ability to review local government decisions effectively.
3. Bureaucratic discretion is a significant challenge to administrative justice in Nigeria, as it often leads to arbitrary decision-making.

4. Judicial review of administrative tribunals' decisions is limited, undermining the effectiveness of administrative justice in Nigeria.
5. Administrative tribunals in Nigeria suffer from institutional weaknesses, including inadequate funding, lack of independence, and limited capacity.
6. The study reveals a paradox of bureaucratic discretion, where administrative tribunals are expected to ensure accountability and transparency, but are often constrained by bureaucratic discretion.

5.2 Conclusion

This study has reconceptualized the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, highlighting the complexities and challenges that undermine their effectiveness. Through a critical discourse analysis, the research has demonstrated that administrative tribunals in Nigeria operate within a flawed legal framework, characterized by inadequate jurisdiction, limited capacity, and institutional weaknesses. The study has also revealed the paradox of bureaucratic discretion, where administrative tribunals are expected to ensure accountability and transparency, but are often constrained by bureaucratic discretion. This paradox highlights the tensions between the need for administrative efficiency and the need for accountability and transparency in administrative decision-making.

The findings of this study have significant implications for the reform of administrative tribunals in Nigeria. To enhance their effectiveness, it is essential to strengthen their jurisdiction, capacity, and independence. This can be achieved through legislative reforms that clarify their powers and functions, as well as provide adequate funding and resources. Furthermore, there is a need to promote transparency and accountability in administrative decision-making, through the

establishment of clear guidelines and procedures for administrative tribunals. This can be achieved through the development of regulatory frameworks that promote transparency, accountability, and participation in administrative decision-making. Additionally, there is a need to enhance the capacity of administrative tribunals, through training and capacity-building programs that equip them with the necessary skills and knowledge to effectively review administrative decisions.

Ultimately, this study contributes to the ongoing debates on administrative justice, judicial review, and the role of administrative tribunals in promoting good governance in Nigeria. By highlighting the challenges and limitations of administrative tribunals, this research aims to inform policy and legislative reforms that can enhance their effectiveness in ensuring accountability and transparency in local government decision-making. The study's findings also underscore the need for a more nuanced understanding of the complex relationships between administrative tribunals, bureaucratic discretion, and administrative justice in Nigeria. By adopting a critical discourse analysis approach, this research has provided a fresh perspective on the efficacy of administrative tribunals in Nigeria, highlighting the need for reforms that promote transparency, accountability, and participation in administrative decision-making.

5.3 Contributions to Knowledge

This study makes several contributions to knowledge in the field of administrative law, administrative justice, and public administration.

Firstly, this study contributes to the ongoing debates on the role of administrative tribunals in promoting good governance and ensuring accountability in administrative decision-making. By

examining the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, this study provides a nuanced understanding of the challenges and limitations of administrative tribunals in ensuring administrative justice.

Secondly, this study contributes to the theoretical understanding of the paradox of bureaucratic discretion, highlighting the tensions between the need for administrative efficiency and the need for accountability and transparency in administrative decision-making. By adopting a critical discourse analysis approach, this research provides a fresh perspective on the complex relationships between administrative tribunals, bureaucratic discretion, and administrative justice in Nigeria.

Thirdly, this study contributes to the empirical understanding of the challenges and limitations of administrative tribunals in Nigeria. By examining the jurisdiction, capacity, and independence of administrative tribunals, this study provides a detailed analysis of the institutional weaknesses that undermine their effectiveness.

Fourthly, this study contributes to the development of a critical discourse analysis framework for examining the relationships between language, power, and administrative decision-making. By applying this framework to the study of administrative tribunals in Nigeria, this research demonstrates the value of critical discourse analysis in examining the complex power dynamics that shape administrative decision-making.

Fifthly, this study contributes to the policy and legislative reforms aimed at strengthening the jurisdiction, capacity, and independence of administrative tribunals in Nigeria. By highlighting the institutional weaknesses that undermine the effectiveness of administrative tribunals, this

study provides a roadmap for reforms that can enhance their ability to ensure accountability and transparency in administrative decision-making.

Sixthly, this study contributes to the understanding of the impact of administrative tribunals on the lives of citizens in Nigeria. By examining the experiences of citizens who have interacted with administrative tribunals, this study provides a nuanced understanding of the ways in which administrative tribunals can promote or undermine administrative justice.

Seventhly, this study contributes to the development of a more nuanced understanding of the relationships between administrative tribunals, the judiciary, and the executive in Nigeria. By examining the ways in which these institutions interact and influence one another, this study provides a detailed analysis of the complex power dynamics that shape administrative decision-making in Nigeria.

Lastly, this study contributes to the ongoing debates on the role of administrative law and administrative justice in promoting good governance and ensuring accountability in Africa. By examining the experiences of Nigeria, this study provides a nuanced understanding of the challenges and limitations of administrative tribunals in ensuring administrative justice in Africa.

5.4 Areas for Further Studies

While this study has provided a nuanced understanding of the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, there are several areas that require further investigation.

1. A comparative analysis of the efficacy of administrative tribunals in reviewing local government decisions in other African countries could provide valuable insights into best practices and challenges.
2. Further research is needed to examine the impact of administrative tribunals on vulnerable groups, such as women, children, and marginalized communities.
3. The role of civil society organizations in promoting administrative justice and accountability in Nigeria requires further investigation.
4. The impact of technology on the efficacy of administrative tribunals in Nigeria, including the use of online platforms and digital tools, requires further research.
5. Further research is needed to examine the judicial review process of administrative tribunals' decisions in Nigeria, including the challenges and limitations of the process.
6. The need for capacity building for administrative tribunals in Nigeria, including training and development programs, requires further investigation.
7. The potential for alternative dispute resolution mechanisms, such as mediation and arbitration, in resolving administrative disputes in Nigeria requires further research.
8. Further research is needed to examine the impact of administrative tribunals on good governance in Nigeria, including their role in promoting transparency, accountability, and participation.

These areas for further studies highlight the need for ongoing research and investigation into the efficacy of administrative tribunals in Nigeria and their role in promoting administrative justice and good governance.

5.5 Recommendations

Based on the findings of this study, the following recommendations are made:

1. **Strengthening the Jurisdiction of Administrative Tribunals:** The jurisdiction of administrative tribunals in Nigeria should be strengthened to enable them to effectively review local government decisions.
2. **Enhancing the Independence of Administrative Tribunals:** The independence of administrative tribunals in Nigeria should be enhanced to ensure that they are not subject to undue influence or interference from the executive or legislative arms of government.
3. **Improving the Capacity of Administrative Tribunals:** The capacity of administrative tribunals in Nigeria should be improved through training and development programs to enhance their ability to effectively review local government decisions.
4. **Promoting Transparency and Accountability:** Administrative tribunals in Nigeria should promote transparency and accountability in their decision-making processes to ensure that citizens have trust and confidence in their operations.
5. **Establishing Clear Guidelines and Procedures:** Clear guidelines and procedures should be established for administrative tribunals in Nigeria to ensure that they operate in a fair, transparent, and accountable manner.
6. **Enhancing Public Awareness:** Public awareness of administrative tribunals and their role in promoting administrative justice should be enhanced through public education and outreach programs.
7. **Encouraging Civil Society Participation:** Civil society organizations should be encouraged to participate in the operations of administrative tribunals to ensure that citizens' interests are represented and protected.

8. **Reviewing and Revising the Legal Framework:** The legal framework governing administrative tribunals in Nigeria should be reviewed and revised to ensure that it is consistent with international best practices and promotes administrative justice and good governance.

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LIST OF ABBREVIATIONS

BPP	Bureau of Public Procurement
CDA	Critical Discourse Analysis
ECOWAS	Economic Community of West African States
ECCJ	ECOWAS Community Court of Justice
EFCC	Economic and Financial Crimes Commission
ICCPR	International Covenant on Civil and Political Rights
ICPC	Independent Corrupt Practices and Other Related Offences Commission
NJC	National Judicial Council
NHRC	National Human Rights Commission
PCC	Public Complaints Commission
UDHR	Universal Declaration of Human Rights
UNCAC	United Nations Convention Against Corruption
UNECE	United Nations Economic Commission for Europe

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ABSTRACT

The role of administrative tribunals in reviewing local government decisions in Nigeria has been a subject of controversy. Despite their establishment to provide a check on bureaucratic discretion, these tribunals have been criticized for their limited impact. The controversy surrounding the efficacy of administrative tribunals in Nigeria has significant implications for administrative justice, the rule of law, and the protection of citizens' rights. This study aims to reconceptualize the efficacy of administrative tribunals in Nigeria by examining the paradox of bureaucratic discretion and its implications for administrative justice. The study seeks to fill a significant gap in knowledge regarding the role of administrative tribunals in Nigeria, particularly in relation to their independence, effectiveness, and accountability. Specifically, the study explores the extent to which administrative tribunals in Nigeria have been able to provide an effective check on bureaucratic discretion, and the factors that have contributed to their limited impact. The study's key findings reveal that the tribunals' efficacy is hindered by a lack of independence, inadequate resources, and limited jurisdiction. Furthermore, the study reveals that the paradox of bureaucratic discretion is perpetuated by a complex web of power relations, institutional weaknesses, and cultural factors. The study also identifies a lack of transparency, accountability, and fairness in the decision-making processes of local governments in Nigeria. This qualitative study employed a critical discourse analysis approach, examining a range of documents, including legislative enactments, court judgments, tribunal decisions, and policy documents. The study concludes that the efficacy of administrative tribunals in Nigeria can be enhanced through reforms that promote independence, transparency, and accountability. The study recommends the establishment of an independent tribunal to review local government decisions, as well as the development of clear guidelines and procedures for tribunal decision-making. Additionally, the study suggests that the Nigerian government should prioritize the development of institutional capacity and the promotion of a culture of transparency and accountability within local governments. Ultimately, this study contributes to a deeper understanding of the complexities surrounding administrative tribunals in Nigeria and provides insights for policymakers, practitioners, and scholars seeking to strengthen administrative justice in the country.