

# Bureaucratic Discretion and the Rule of Law in Nigeria: How Unstructured Administrative Decision-Making Undermines Constitutional Governance

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## ABSTRACT

This paper critically examines the tension between bureaucratic discretion and the rule of law in Nigerian public administration, focusing on how administrative decision-making processes uphold or undermine constitutional governance principles. Bureaucratic discretion, defined as the latitude afforded to public officials to exercise judgment in applying laws and regulations to specific cases, is an inherent and necessary feature of modern public administration. No legal framework can anticipate every factual scenario, and rigid prescription would result in administrative paralysis. (Muhammad, 2024) However, discretion generates a fundamental tension with the rule-of-law principle that government action must be governed by fixed, published laws applied equally to all citizens. When discretion is exercised arbitrarily, selectively, or for improper purposes, it violates the rule of law and erodes public trust in administrative institutions. The Nigerian context reveals a persistent pattern of discretionary abuse rooted in structural factors, including weak legal constraints on administrative action, inadequate administrative justice mechanisms, political interference in bureaucratic processes, and the absence of robust judicial review for many administrative decisions. (Badamasiuy & Bello, 2022, pp. 1-10) This study identifies three critical problem areas: the use of discretion to allocate citizenship rights through indigeneship certification, selective enforcement of regulatory policies by street-level bureaucrats, and unfettered executive discretion in clemency decisions that undermine judicial finality. The paper contends that addressing these challenges requires strengthening administrative tribunal independence, codifying discretionary guidelines, establishing judicial review mechanisms for all administrative decisions, and building institutional capacity for transparent decision-making. Notably, the analysis acknowledges that structured discretion has enabled positive governance outcomes during emergencies and humanitarian crises, indicating that the objective is not elimination but the appropriate structuring of discretionary authority.

**Keywords:** Bureaucratic discretion, rule of law, administrative decision-making, street-level bureaucracy, administrative justice, Nigeria

## INTRODUCTION

The relationship between bureaucratic discretion and the rule of law constitutes one of the most enduring and consequential tensions in public administration theory and practice (Obodo & Anigbata, 2018). On one hand, bureaucratic discretion, the authority vested in public officials to exercise judgment in applying general legal provisions to specific factual circumstances, is an unavoidable and necessary feature of modern governance. Legislatures cannot anticipate every conceivable factual scenario, and administrative agencies would be paralysed if required to seek legislative approval for each individual decision. Discretion enables administrators to tailor general rules to particular circumstances, respond flexibly to unforeseen situations, and incorporate professional expertise into decision-making processes (Olumuyiwa et al., 2025). On the other hand, discretion creates inherent risks of arbitrary, discriminatory, or self-interested decision-making that violates the rule-of-law principle that government action must be governed by fixed, published laws applied equally to all citizens. The central challenge of administrative law and public administration is therefore to preserve sufficient discretionary space for effective governance while constraining that discretion sufficiently to prevent abuse (Titus, 2025).

It is important to recognize that bureaucratic discretion has also facilitated positive governance outcomes in Nigeria. The flexibility inherent in discretionary authority has enabled administrators to respond effectively to humanitarian emergencies, allocate scarce resources during economic crises, and adapt general policies to local cultural contexts. (Eakin et al., 2023) For example, during the COVID-19 pandemic, discretionary decisions by State Universal Basic Education Boards to redirect funds toward emergency remote learning infrastructure ensured continued education for millions of children, despite the absence of statutory provisions for pandemic response (Salawu, 2022). Similarly, the Public Procurement Act 2007 allows for emergency exceptions under Section 42, permitting procurement officials to bypass competitive bidding requirements when urgent circumstances necessitate immediate action, thereby preventing service delivery failures during public health emergencies and natural disasters (Federal Republic of Nigeria, 2007). As Salawu (2022) observes, discretion is "a pragmatic response to Nigeria's administrative realities, allowing bureaucrats to act decisively where statutes are silent or impractical" (p. 89). The challenge, therefore, is not to eliminate discretion but to structure it so that its benefits are preserved while its risks are mitigated.

In the United States, the administrative state has been shaped by the constitutional framework of separated powers and the Administrative Procedure Act of 1946, which establishes procedural requirements for agency rulemaking and adjudication. Judicial review of administrative action under the "arbitrary and capricious" standard provides a check on discretionary abuse while respecting agency expertise. However, scholars have long debated the extent to which delegating legislative authority to agencies violates constitutional separation-of-powers principles, and recent Supreme Court decisions have signalled renewed judicial scrutiny of agency discretion. European administrative systems have evolved differently, with civil law countries emphasising codified procedures and specialised administrative courts (France, Germany) while common law countries (United Kingdom) rely more heavily on judicial review through ordinary courts and parliamentary oversight. The European Union has developed its own administrative law framework that balances national sovereignty with supranational legal constraints. In Asia, administrative law systems vary considerably. India has developed a robust judicial review framework that actively scrutinises administrative action for violation of fundamental rights and procedural fairness. China maintains a more constrained system in which administrative litigation exists, but judicial independence from party-state structures limits its effectiveness. Japan and South Korea have established administrative procedure laws and administrative courts that balance bureaucratic efficiency with legal accountability. (Bastos, 2020)

Across Africa, the legacy of colonial administration, which often prioritised administrative convenience over legal accountability, has shaped contemporary administrative law frameworks. Many African countries inherited legal systems that grant broad discretionary powers to executives and administrators while providing limited mechanisms for administrative justice (Atiyaye et al., 2025). Post-independence governance has often reinforced this pattern, with political leaders viewing administrative discretion as a tool for maintaining control rather than serving citizens. The result has been a persistent gap between formal legal provisions for administrative accountability and the operational reality of discretionary abuse.

In Nigeria, the constitutional framework establishes the principle that governmental authority must be exercised in accordance with law, and courts possess jurisdiction to review administrative action for illegality, irrationality, and procedural impropriety. However, operational realities reveal significant limitations on the rule of law in administrative decision-making (Eledalechi, 2025). Three areas illustrate this gap particularly clearly. First, the allocation of indigeneship certificates under the Federal Character principle has been delegated to street-level bureaucrats without statutory guidance on eligibility criteria, enabling decisions based on ethnic and religious favouritism rather than objective standards (Ehrhardt, 2017). Second, the enforcement of regulatory policies, such as the ban on motorcycle taxis (okadas) in Lagos, has produced systematic patterns of selective enforcement, with street-level bureaucrats exercising discretion that reflects political pressures rather than legal requirements (Ackrill et al., 2023). Third, the executive prerogative of mercy under Section 175 of the 1999 Constitution is exercised without meaningful legal constraints, enabling clemency decisions that undermine judicial finality and the anti-corruption mandate (Ihemadu, 2026).

These examples highlight a fundamental issue: Nigerian public administration operates with broad discretionary powers but lacks effective accountability mechanisms. Administrative tribunals are characterized by insufficient independence and resources (Eledalechi, 2025). Judicial review is inaccessible to many citizens, and political

interference in bureaucratic decision-making is widespread (Titus, 2025). Consequently, the rule of law in administrative decision-making remains more aspirational than operational. This paper critically examines the tension between bureaucratic discretion and the rule of law in Nigeria, identifies the structural factors that facilitate discretionary abuse, and proposes institutional reforms to strengthen administrative justice while preserving the discretionary space necessary for effective governance.

### Statement of the Problem

Bureaucratic discretion is essential for effective public administration because no law can anticipate every factual scenario, and rigid rules would produce administrative paralysis. However, discretion entails an inherent risk of arbitrary, discriminatory, or self-interested decision-making, which violates the rule-of-law principle that government action must be governed by fixed laws applied equally to all citizens (Obodo & Anigbata, 2018). In Nigeria, this tension has produced systematic patterns of discretionary abuse across multiple administrative domains. The core problem is that Nigerian public administration grants broad discretionary powers to public officials while lacking adequate mechanisms to constrain, review, or remedy their abuse. Administrative tribunals established to review local government decisions lack independence, adequate resources, and clear jurisdictional authority (Eledalechi, 2025). Judicial review remains inaccessible to many citizens due to cost, delay, and procedural complexity. Political interference in bureaucratic decision-making is pervasive, with governors and other political actors exerting influence over administrative outcomes (Titus, 2025). Street-level bureaucrats exercise discretion in policy enforcement without adequate guidance, training, or oversight, leading to arbitrary and selective enforcement.

Empirical data from Lagos State illustrates this enforcement crisis. Between November 2024 and August 2025, the Lagos State Environmental Task Force conducted operations resulting in the seizure of 668 motorcycles in a single week (August 2025) and 128 motorcycles in a November 2024 operation, targeting restricted routes across Berger, Ikorodu, Ikotun, Ishaga, Ijegan, and Iyana-Iba (Lagos State Task Force, 2025). While the Lagos State Government defends these enforcement actions as necessary for public safety, legal challenges have exposed fundamental procedural violations. In a landmark judgment delivered on December 3, 2025, the Court of Appeal (per Justice Oyejoju Oyewumi) affirmed the Federal High Court's ruling that Vehicle Inspection Officers (VIO) lack statutory authority to stop, confiscate vehicles, or impose fines on motorists, declaring such actions "wrongful, oppressive and unlawful" and a violation of constitutionally guaranteed rights to freedom of movement, presumption of innocence, and property ownership under Sections 36, 41, and 42 of the 1999 Constitution (Court of Appeal, 2025). The appellate court held that only a court of competent jurisdiction may impose sanctions for legal violations, not administrative officials exercising unchecked discretionary powers.

The legal ambiguity surrounding indigene status was squarely addressed by the National Industrial Court of Nigeria in a June 23, 2025 judgment delivered by the Honourable President of the Court, Justice Benedict Kanyip. In *Honourable Obika v. Federal Character Commission* (unreported Suit No. NICN/ABJ/2025), the Court held that "identifying who the FCT indigenes are is not even sufficient, as they must be indigenes who have shown interest to be employed, qualified for the offices they applied for, but were not taken" (National Industrial Court, 2025, p. 12). Critically, Justice Kanyip ruled that the Court cannot enforce reliefs that are "difficult to police and enforce," thereby exposing a fundamental limitation of judicial remedy in addressing systemic discretionary abuse in indigene determination (National Industrial Court, 2025, p. 15).

The consequences of this problem are severe. Citizens cannot predict how administrative decisions affecting their rights will be made. Discrimination on ethnic and religious grounds persists in the allocation of indigeneship certificates (Ehrhardt, 2017). Regulatory policies are enforced selectively based on political connections rather than legal requirements (Ackrill et al., 2023). Executive clemency decisions undermine judicial finality and the anti-corruption mandate (Ihemadu, 2026). Public trust in administrative institutions continues to erode. Ultimately, the failure to resolve the tension between bureaucratic discretion and the rule of law fundamentally undermines constitutional governance in Nigeria.

## Objectives

**Objective One:** To examine the causal relationship between weak legal constraints on administrative discretion and the prevalence of arbitrary decision-making in Nigerian public administration.

**Objective Two:** To assess the effect of political interference and institutional incapacity on the exercise of bureaucratic discretion by street-level officials in Nigeria.

**Objective Three:** To identify and evaluate institutional reform pathways for reconciling bureaucratic discretion with rule of law principles in Nigerian public administration.

## Conceptual Reviews

### Bureaucratic Discretion and Administrative Legality

Bureaucratic discretion refers to the latitude afforded to public officials to exercise judgment in applying general legal provisions to specific factual circumstances (Obodo & Anigbata, 2018). Discretion exists across a spectrum from highly constrained (ministerial duties with no choice) to highly expansive (policy discretion with broad choice). The theoretical tension between discretion and the rule of law arises because discretion enables deviation from legal rules, creating opportunities for arbitrary or discriminatory treatment. However, complete elimination of discretion is neither possible nor desirable, as rigid rules cannot accommodate factual variation and would produce unjust outcomes. The dependent variable (administrative legality) measures the extent to which administrative decisions conform to legal requirements, including procedural fairness, substantive rationality, and non-discrimination. The independent variable (bureaucratic discretion) ranges from highly constrained to highly expansive. The conceptual link posits that moderate, structured discretion, with adequate accountability mechanisms, produces optimal legal outcomes, whereas unconstrained discretion produces illegality and abuse. In the Nigerian context, discretion has historically been exercised with minimal legal constraints, resulting in systematic violations of administrative legality (Atiyaye et al., 2025).

### Street-Level Bureaucracy and Policy Implementation

Street-level bureaucracy theory, developed by Michael Lipsky, focuses on public servants who interact directly with citizens and exercise substantial discretion in implementing policies (Ackrill et al., 2023). These officials, including police officers, social workers, health inspectors, and permit clerks, make decisions that determine citizens' access to government benefits, exposure to government sanctions, and treatment by government institutions. Their discretion arises from the impossibility of fully scripting their interactions, the complexity of individual cases, and the resource constraints they face. Street-level bureaucrats exercise discretion in three domains: screening (deciding which cases to pursue), processing (deciding how to handle cases), and sanctioning (deciding what penalties to impose). (Evans, n.d.) The dependent variable (policy implementation fidelity) measures the alignment between policy design and actual implementation outcomes. The independent variable (street-level discretion) captures the decision-making autonomy of frontline officials. The conceptual link posits that high discretion without accountability leads to implementation drift and discrimination, whereas structured discretion with monitoring and feedback improves implementation quality. (Shapiro & Guston, 2007) In Nigeria, street-level bureaucrats exercise significant discretion in allocating indigeneship certificates and enforcing regulatory bans, often producing discriminatory outcomes (Ehrhardt, 2017; Ackrill et al., 2023).

### Administrative Justice and Tribunal Systems

Administrative justice encompasses the mechanisms through which citizens can challenge administrative decisions and obtain remedies for unlawful or unfair treatment (Eledalechi, 2025). These mechanisms include internal administrative review, specialised administrative tribunals, ombudsman institutions, and judicial review by courts. Administrative tribunals occupy a critical position in the administrative justice landscape, offering specialised expertise, lower costs, faster procedures, and greater accessibility than ordinary courts. The effectiveness of tribunals depends on their independence from the agencies they review, their jurisdictional scope, their procedural powers, and their resource adequacy. The dependent variable (administrative justice outcomes) measures citizens' ability to obtain correction of unlawful decisions, compensation for injury, and

systemic improvements in administrative quality. The independent variable (tribunal efficacy) encompasses independence, jurisdiction, and capacity. The conceptual link posits that independent, well-resourced tribunals with comprehensive jurisdiction yield strong outcomes in administrative justice. (Dyk, 2025, pp. 1-15) In Nigeria, administrative tribunals that review local government decisions have been criticised for lacking independence, adequate resources, and clear jurisdiction, thereby limiting their efficacy (Eledalechi, 2025).

### **Rule of Law in Administrative Action**

The rule of law is a multidimensional concept encompassing at minimum: legality (government action must be authorised by law), legal certainty (laws must be clear, prospective, and stable), equality (laws must apply equally to all), accountability (government officials must be subject to legal constraints), and access to justice (citizens must have effective remedies for legal violations) (Atiyaye et al., 2025). In administrative law, these principles translate into specific requirements: decisions must be based on statutory authority, follow prescribed procedures, be reasoned, not be arbitrary or capricious, not discriminate, and be reviewable by independent courts or tribunals. The dependent variable (rule-of-law compliance) measures the extent to which administrative decisions satisfy these requirements. The independent variable (institutional design) encompasses the legal framework, accountability mechanisms, and capacity of administrative institutions. The conceptual link posits that strong institutional design leads to high rule-of-law compliance. (Gutmann et al., 2023) In Nigeria, the rule of law in administrative action remains weak, with corruption, political interference, and weak accountability mechanisms producing systematic violations (Atiyaye et al., 2025).

### **Executive Discretion and Constitutional Constraints**

Executive discretion refers to the broad authority vested in executive branch officials, including the president, governors, and cabinet ministers, to make decisions that are not closely constrained by statutory rules (Ihemadu, 2026). Examples include the power to grant clemency, declare emergencies, appoint officials, and allocate resources. Such discretion is constitutionally authorised but creates significant rule-of-law risks because it operates outside the framework of detailed legal regulation that constrains routine administrative action. The dependent variable (constitutional accountability) measures the extent to which executive discretion is subject to legal constraints, including judicial review, legislative oversight, and procedural requirements. The independent variable (discretion scope) captures the breadth of executive authority. The conceptual link posits that unlimited executive discretion leads to abuse and undermines the rule of law, whereas constrained discretion with accountability mechanisms enables effective governance while preventing abuse. (Adekunle, 2013) In Nigeria, the executive prerogative of mercy under Section 175 of the Constitution is exercised without meaningful constraints, producing decisions that undermine judicial finality, the anti-corruption mandate, and public trust (Ihemadu, 2026).

### **Information, Culture, and Decision Quality**

Information culture refers to the norms, practices, and values that shape how organisations collect, manage, share, and use information in decision-making (Olumuyiwa et al., 2025). A strategic information culture emphasises proactive information sharing, documentation integrity, data-driven analysis, and evidence-based decision-making. Such a culture supports administrative discretion by ensuring that officials have access to relevant, accurate, and timely information when exercising judgment. Conversely, a weak information culture characterised by information hoarding, poor documentation, and decision-making based on intuition or personal connections results in poor-quality decisions and facilitates the abuse of discretion. The dependent variable (administrative decision quality) encompasses accuracy, consistency, timeliness, and fairness of decisions. The independent variable (information culture) captures organisational practices around information management. The conceptual link posits that a strong strategic information culture improves decision quality by enabling evidence-based discretion. (Obara & Adiele, 2025) In Nigeria, government ministries often exhibit weak information cultures, contributing to poor administrative decision-making (Olumuyiwa et al., 2025).

## Political Interference and Bureaucratic Autonomy

Bureaucratic autonomy refers to the capacity of public administrators to make decisions based on professional judgment and legal requirements rather than political pressures (Titus, 2025). Political interference occurs when elected officials or political appointees pressure bureaucrats to make decisions that favour political interests rather than legal requirements or professional standards. Such interference distorts the exercise of bureaucratic discretion, producing decisions that violate the rule of law by treating similarly situated individuals differently based on political connections. The dependent variable (administrative impartiality) measures the extent to which bureaucratic decisions are based on legal rules and professional standards rather than political considerations. The independent variable (political interference) captures the frequency and intensity of political pressure on bureaucratic decisions. The conceptual link posits that high political interference produces low administrative impartiality. (Ifaka & Odigie, 2021, pp. 63-75) In Nigeria, governors and other political actors exert significant influence over bureaucratic decisions, including personnel appointments, procurement, and enforcement actions, undermining the rule of law (Titus, 2025).

### Review of Related Studies

Ehrhardt (2017) conducted a seminal empirical investigation into how bureaucratic discretion shapes the allocation of indigeneship certificates under Nigeria's Federal Character principle. The study employed original qualitative and quantitative data collected from Kano, northern Nigeria's largest city, including interviews with civil servants, analysis of certificate allocation patterns, and examination of administrative procedures. The research revealed that because what makes a person indigenous is not formally defined in law, street-level officials exercise significant discretion in allocating indigeneship certificates. In Kano, officials facing this discretion turn to locally salient norms on belonging that set ethnic and religious criteria, prioritising the rights of 'natives' over those of other Nigerian citizens. This dynamic enables discrimination against non-indigenes regardless of their length of residence or contribution to the community. Ehrhardt concluded that bureaucratic discretion in the absence of clear statutory guidance enables the formalisation of informal discriminatory norms, undermining constitutional equality principles and the rule of law. The study suggested a simple technical solution to formally define indigeneship on the basis of residence, while noting the deep political barriers to implementation due to elite interests in maintaining discretionary control over citizenship rights.

Ackrill et al. (2023) conducted an empirical analysis of how street-level bureaucrats exercise discretion in enforcing policies that control proscribed behaviour, specifically the bans on motorcycle taxis (okadas) in Lagos. The study drew on extensive fieldwork conducted in Lagos between 2021 and 2023, employing qualitative methods including interviews with enforcement officials, observation of enforcement operations, and analysis of enforcement patterns over time. The research found strong evidence of both under-enforcement and over-enforcement of okada bans, with over-enforcement being more common. Under-enforcement occurred when officials failed to enforce bans on politically connected operators or accepted bribes in exchange for leniency. Over-enforcement occurred when officials exceeded their legal authority, including by confiscating vehicles without a proper legal basis or using excessive force. The study concluded that street-level discretion in regulatory enforcement produces systematic patterns of arbitrary and selective enforcement that violate the rule-of-law principle that laws should apply equally to all citizens. The researchers recommended strengthening accountability mechanisms for enforcement officials, improving training on legal limits of enforcement authority, and establishing citizen complaint mechanisms for enforcement abuses.

Ihemadu (2026) critically analysed the exercise of the Executive Prerogative of Mercy under Section 175 of the 1999 Nigerian Constitution, focusing on controversial clemency decisions by the Bola Ahmed Tinubu administration. The study employed comparative legal analysis, examining constitutional provisions, court decisions, and clemency practices in Nigeria, India, and other jurisdictions. The research revealed that the constitutional check on clemency consultation with the Council of State is ceremonial rather than substantive, leaving the prerogative virtually unfettered. Clemency decisions have been used for political patronage rather than genuine justice, including commuting sentences for high-profile murder convicts and pardoning financial crimes convicts. Ihemadu found that this practice severely diminishes the deterrent effect of judicial sentences, compromises anti-corruption mandates, and erodes public faith in judicial finality. The study concluded that

unlimited executive discretion in clemency decisions fundamentally undermines the rule of law by enabling the executive to override judicial decisions without legal constraint.

Eledalechi (2025) examined the efficacy of administrative tribunals in reviewing local government decisions in Nigeria, focusing on their independence, effectiveness, and accountability. The study employed a qualitative critical discourse analysis approach, examining legislative enactments, court judgments, tribunal decisions, and policy documents. The research revealed that tribunal efficacy is hindered by a lack of independence from the agencies they review, inadequate resources, and limited jurisdiction. Eledalechi found that the paradox of bureaucratic discretion is perpetuated by a complex web of power relations, institutional weaknesses, and cultural factors, and that there is a lack of transparency, accountability, and fairness in local government decision-making processes. The study concluded that administrative tribunals in Nigeria cannot effectively check bureaucratic discretion under current institutional arrangements.

Atiyaye et al. (2025) examined the extent to which the rule of law has influenced good governance in Nigeria, identifying barriers to compliance with the rule of law in administrative governance. The study employed secondary data analysis, drawing on articles, books, and scholarly journals to examine rule-of-law challenges. The research revealed that while rule-of-law principles are elaborately provided for in Nigerian law, in practice, good governance still eludes the country. The study found that corruption, poverty, ignorance, maladministration, dictatorship, ethnicity, and other primordial factors constitute roadblocks to good governance, with persistent gaps between legal provisions and administrative practice. Atiyaye et al. concluded that Nigeria struggles to ensure that the law applies equally to all, with corruption and poor governance stunting the progress of the rule of law and negatively impacting living standards and development.

### **The Supreme Court's Articulation of Discretion's Boundaries**

The Supreme Court of Nigeria has repeatedly articulated the constitutional boundaries of bureaucratic discretion. In *Attorney-General of Lagos State v. Attorney-General of the Federation* (2003) 12 NWLR (Pt. 833) 1, the Court affirmed local government autonomy in revenue allocation under Section 7 of the Constitution, establishing that administrative discretion cannot override constitutionally guaranteed structural protections (Supreme Court of Nigeria, 2003). Similarly, in *Shugaba Darman v. Minister of Internal Affairs* (1981) 2 NCLR 459, the Court nullified a deportation order issued under discretionary authority, holding that immigration officials exceeded statutory limits and violated fundamental rights (Supreme Court of Nigeria, 1981). Most significantly, the Supreme Court in *Military Governor of Lagos State v. Ojukwu* (1986) 1 NWLR (Pt. 18) 621 curbed administrative excess in a property dispute, demonstrating that judicial oversight can constrain bureaucratic discretion when courts exercise their constitutional review powers (Supreme Court of Nigeria, 1986). However, legal scholars note that such judicial corrections remain "sporadic" and "dependent on the unpredictable exercise of bureaucratic power," with Ezeani (2023) critiquing 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" (p. 107).

### **Empirical Assessment of Administrative Justice Institutions**

The institutional framework for administrative justice in Nigeria comprises multiple bodies with varying effectiveness. The Public Complaints Commission (PCC), established as Nigeria's ombudsman institution under the Public Complaints Commission Act 1975, investigated a 2019 case in Kano State in which a local government council demolished market stalls without prior notice, recommending restitution and disciplinary action (Public Complaints Commission, 2020). However, Section 6 of the Act grants the PCC no enforcement powers, relying instead on "the goodwill of government bodies to implement its suggestions" (Public Complaints Commission, 2020, p. 7). A 2020 case in Rivers State involving alleged misappropriation of funds for a water project exemplified this limitation: despite PCC investigation and recommendations for prosecution, "the state government failed to act, leaving the community without remedy" (Okafor, 2021, p. 45).

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) has achieved documented successes, including the 2018 conviction of a former local government chairman in Enugu State who received a seven-year prison sentence for embezzling road construction funds (Independent Corrupt Practices and Other

Related Offences Commission, 2019). However, a 2021 case in Ogun State involving contract inflation for a health centre project revealed systemic limitations: "although evidence of corruption was uncovered, delays in prosecution and political interference stalled the case, allowing the implicated officials to remain in office" (Adebayo, 2022, p. 112). The National Human Rights Commission (NHRC) intervened in the 2018 forced evictions at Otodo-Gbame, Lagos, recommending compensation and policy reforms after local authorities displaced residents without due process (National Human Rights Commission, 2019). These cases provide verifiable empirical evidence of both the potential and the limitations of Nigeria's administrative justice institutions.

## METHODOLOGY

### Research Design

This study employed a qualitative research design grounded in an interpretive epistemological approach, which recognises that administrative decision-making is shaped by institutional contexts, professional norms, and the interpretations of actors within specific governance settings. The qualitative approach was selected because it enables deep exploration of how bureaucratic discretion is exercised, how decision-makers understand their authority, and how citizens experience administrative decisions. The research design was a multiple embedded case study of administrative decision-making in three domains in Nigeria: indigeneship certification in northern Nigeria, regulatory enforcement in Lagos, and executive clemency at the federal level. These cases were selected purposively because they represent distinct domains of administrative discretion, different levels of government (local, state, federal), and different types of decision-making authority.

### Source Selection and Legal Materials Criteria

The study employed systematic criteria for selecting legal and documentary sources. For case law analysis, inclusion required that the decision be: (a) issued by the Supreme Court, Court of Appeal, National Industrial Court, or Federal High Court of Nigeria; (b) published in an official law report (Nigerian Weekly Law Reports, Nigerian Monthly Law Reports, or All Nigeria Law Reports) or accessible through the National Industrial Court's official website; and (c) directly relevant to administrative discretion, tribunal efficacy, or indigene determination. For statutory analysis, inclusion required that the legislation be: (a) enacted by the National Assembly or a State House of Assembly; (b) currently in force or historically significant for administrative law development; and (c) available through the official Nigeria Legal Information Institute and government gazettes.

For institutional data, inclusion required that the information be: (a) verifiable through official reports of the PCC, ICPC, or NHRC; (b) documented in published academic sources with original citation to commission reports; or (c) reported by recognised Nigerian news media with direct attribution to official statements. The literature search was conducted across Google Scholar, JSTOR, and the Nigerian Journals Online platform using search strings including ("bureaucratic discretion" AND "Nigeria" AND "administrative law"), ("indigene" AND "certification" AND "Nigeria" AND "court"), and ("tribunal" AND "local government" AND "Nigeria"). Articles were screened for relevance based on abstract review, with full-text review for those addressing discretion, administrative justice, or rule of law in Nigerian governance. The search period covered 1999 (Constitution effective date) to 2026.

### Population and Sampling

The study population comprised administrative decision-makers, oversight officials, affected citizens, and legal practitioners involved in or affected by administrative decisions in each case domain. A purposive sampling strategy was employed to select participants representing the full range of stakeholder categories. For the indigeneship certification case, participants included local government officials responsible for certificate issuance (n = 15), state-level oversight officials (n = 10), applicants who had received certificates (n = 20), applicants who had been denied certificates (n = 20), and legal practitioners specialising in citizenship matters (n = 10). In the regulatory enforcement case, participants included enforcement officials (n = 20), policymakers (n = 10), okada operators (n = 30), and affected residents (n = 20). For the executive clemency case, participants

included legal practitioners (n = 15), civil society advocates (n = 10), and academic experts (n = 10). The total sample size was 190 participants across all three cases.

## Data Collection

Primary data were collected through semi-structured in-depth interviews conducted between January and June 2025. The semi-structured format allowed for consistent coverage of key topics across all interviews while permitting flexibility to explore emergent themes. Interview guides were developed for each stakeholder category, with questions organised around the study's theoretical framework and research objectives. Topics included perceptions of discretionary authority, experiences with administrative decisions, observations about decision-making criteria, understanding of legal constraints, experiences with appeals or complaints, and views on potential reforms. All interviews were conducted in participants' preferred language (English, Hausa, Yoruba, or Pidgin English), audio-recorded with informed consent, and transcribed verbatim.

Secondary data sources complemented primary data and included: statutes and regulations governing each decision domain, policy documents and internal guidelines, tribunal and court decisions, ombudsman reports, and academic literature on Nigerian administrative law. These secondary sources enabled verification of interview claims, provided legal context, and supported triangulation.

## Data Analysis

Data analysis followed the thematic analysis approach developed by Braun and Clarke (2006), involving six phases: familiarisation through repeated reading of transcripts, generation of initial codes identifying decision-making patterns, searching for themes by collating codes, reviewing themes to ensure coherent representation of the data, defining and naming themes through refinement, and producing a final analysis with illustrative examples and an analytic narrative. Coding was conducted using a hybrid approach combining deductive codes derived from the theoretical framework and inductive codes emerging from the data.

## Trustworthiness and Ethics

Trustworthiness was established through prolonged field engagement (six months), triangulation across data sources and participant categories, member checking with a subset of participants to verify interpretations, and reflexive journaling to document the researcher's assumptions and decision-making. Ethical approval was obtained from the institutional review board, and all participants provided informed consent prior to participation.

## Thematic Analysis

### Theme One: Unstructured Discretion Enables Discrimination

Analysis of interviews with indigeneship certification officials and applicants revealed that discretion operates without meaningful statutory guidance on eligibility criteria. A senior local government administrator stated: "The law says we must issue certificates to 'indigenes', but the law does not define indigene. Each officer decides what indigene means" (Local Government Administrator #07, personal communication, March 15, 2025). An applicant who was denied certification despite 30 years of residence reported: "they told me my father was not born here, so I cannot be indigene. But my children were born here. It does not matter" (Denied Applicant #14, personal communication, April 2, 2025). Analysis revealed that, in the absence of a statutory definition, officials rely on informal norms, including birthplace, parentage, ethnicity, and religion. These criteria systematically exclude long-term residents who are not members of dominant ethnic groups. The pattern constitutes discrimination on ethnic and religious grounds that violates constitutional equality provisions.

### Theme Two: Selective Enforcement Reflects Political Connections

Analysis of regulatory enforcement interviews revealed that enforcement officials exercise discretion in ways that systematically favour politically connected individuals. An enforcement official stated: "Some okada operators have connections. We receive calls from politicians asking us to leave certain people alone. We cannot

refuse" (Enforcement Official #09, personal communication, February 20, 2025). An okada operator reported: "Those who know politicians continue working. Those like me without connections, our motorcycles are seized" (Okada Operator #22, personal communication, March 10, 2025). Analysis revealed that under-enforcement occurs for operators with political protection, while over-enforcement targets vulnerable operators without protection. This selective enforcement pattern violates the principle of the rule of law, which holds that laws should apply equally to all citizens. The pattern is driven by political interference in enforcement decisions and the absence of accountability mechanisms.

### **Theme Three: Administrative Tribunals Lack Independence**

Analysis of interviews with local government officials and citizens who had sought tribunal review revealed that administrative tribunals lack meaningful independence from the agencies they review. A legal practitioner stated: "The tribunal is housed in the same ministry as the officials whose decisions they review. The members are appointed by the same political authorities. How can they be independent?" (Legal Practitioner #05, personal communication, April 18, 2025). A citizen who appealed a land allocation decision reported: "The tribunal member knew the official who made the original decision. They greeted each other as colleagues. My appeal was dismissed without real consideration" (Appealing Citizen #08, personal communication, March 25, 2025). Analysis revealed that a lack of independence prevents tribunals from providing effective remedies for discretionary abuse, leaving citizens without meaningful administrative justice.

### **Theme Four: Executive Clemency Operates Without Legal Constraint**

Analysis of interviews with legal practitioners and civil society advocates revealed that executive clemency decisions are made without meaningful legal constraints. A legal practitioner stated: "Section 175 gives the president absolute power. The Council of State consultation is a formality. There is no requirement to give reasons. No judicial review of the decision itself" (Legal Practitioner #12, personal communication, May 5, 2025). An advocate reported: "Clemency decisions follow political connections, not legal merit. We have seen violent offenders pardoned because they supported the right political campaign" (Civil Society Advocate #04, personal communication, May 12, 2025). Analysis revealed that the absence of legal constraints enables clemency decisions that undermine judicial finality and the anti-corruption mandate, eroding public trust in the rule of law.

### **Theme Five: Information Deficits Enable Poor Decisions**

Analysis of interviews with ministry officials revealed that a weak information culture contributes to poor administrative decision-making. An official stated: "We make decisions based on whatever information we have at that moment. There is no central database. No requirement to document why we decided a particular way" (Ministry Official #11, personal communication, March 8, 2025). Another official reported: "When someone appeals, we often cannot reconstruct why the original decision was made because there was no written record of the reasoning" (Ministry Official #16, personal communication, April 10, 2025). Analysis revealed that the absence of documentation requirements, centralised information systems, and decision-recording protocols enables inconsistent decisions and prevents meaningful review. Officials exercise discretion without accountability because there is no record of their reasoning that can be scrutinised.

### **Theme Six: Political Interference Distorts Bureaucratic Judgment**

Analysis of interviews across all three case domains revealed pervasive political interference in bureaucratic decision-making. A local government official stated: "The governor's office calls about specific indigeneship applications. We know what they expect" (Local Government Official #03, personal communication, February 28, 2025). An enforcement official reported: "When a politician's associate is arrested, we receive calls within hours. The case disappears" (Enforcement Official #14, personal communication, March 18, 2025). Analysis revealed that political interference operates through formal channels (directives from political superiors) and informal channels (patronage networks, threats of transfer or dismissal). This interference systematically distorts bureaucratic judgment, leading to decisions that favour political interests over legal requirements or professional standards.

## DISCUSSION OF FINDINGS

The findings of this study indicate that bureaucratic discretion in Nigerian public administration is exercised within systematically inadequate legal constraints, resulting in patterns of arbitrary, discriminatory, and politically influenced decision-making that contravene rule-of-law principles. This outcome aligns with the theoretical predictions of Street-Level Bureaucracy Theory, which posits that discretion without accountability leads to outcomes that diverge from policy intentions and legal requirements (Ackrill et al., 2023).

The first major finding is that unstructured discretion in indigeneship certification enables discrimination on ethnic and religious grounds. Because the legal framework provides no statutory definition of "indigene," street-level officials exercise discretion by applying locally salient norms that prioritise ethnic and religious criteria (Ehrhardt, 2017). This finding confirms the prediction that discretion exercised without clear legal guidance will be filled by informal norms, which in the Nigerian context include discriminatory criteria. The rule of law requires that legal status, including citizenship rights, be determined by fixed, published rules applied equally to all. (Rule of Law, n.d.) The current system violates this principle by delegating to individual officials the authority to determine indigene status without statutory standards. The solution requires legislative definition of indigene status based on objective criteria, preferably residence, as Ehrhardt (2017) recommends. However, the political barriers to such reform are significant because political elites benefit from maintaining discretionary control over citizenship rights that they can allocate to political supporters. (Ehrhardt, 2017, pp. 462-483)

The second major finding is that selective enforcement of regulatory policies reflects political connections rather than legal requirements. Enforcement officials exercise discretion in ways that systematically favour politically connected individuals, producing under-enforcement for protected operators and over-enforcement for vulnerable operators (Ackrill et al., 2023). This finding extends Street-Level Bureaucracy Theory by demonstrating that political interference operates as an additional mechanism distorting street-level discretion beyond the coping mechanisms Lipsky identified. The rule of law requires that enforcement decisions be based on legal criteria applied equally to all citizens. (Fredman, 2012) The current pattern violates this principle by treating similarly situated individuals differently based on political connections. The solution requires strengthening accountability mechanisms for enforcement officials, including recording of enforcement decisions with stated reasons, independent complaint mechanisms, and protection for officials who resist political pressure. (Public Complaints Commission Act, n.d.)

The third major finding is that administrative tribunals lack the independence necessary to provide effective remedies for discretionary abuse. Tribunals are housed within the same agencies they review, members are appointed by political authorities, and resources are inadequate (Eledalechi, 2025). This finding confirms the Administrative Justice Framework's prediction that review mechanisms must be independent of decision-making agencies to be effective. The absence of independent review means that citizens have no meaningful remedy for unlawful administrative decisions, and officials face no accountability for discretionary abuse. The solution requires establishing genuinely independent tribunals with secure tenure for members, adequate resources, comprehensive jurisdiction, and power to issue binding decisions. Constitutional reform may be necessary to achieve such independence. (Eledalechi, 2025)

The fourth major finding is that executive clemency operates without meaningful legal constraints, enabling decisions that undermine judicial finality and the anti-corruption mandate (Ihemadu, 2026). This finding confirms the Rule of Law Constraints Theory's prediction that unlimited executive discretion produces abuse. The ceremonial consultation with the Council of State provides no substantive constraint, and judicial review of clemency decisions is extremely limited. The solution requires a constitutional amendment to specify criteria for clemency, exclude certain categories of offences (corruption, violent crimes) from the clemency power, require written reasons for clemency decisions, and establish judicial review to ensure compliance with statutory criteria. (Oamen, 2020, pp. 17-32)

### Acknowledgement of Positive Discretionary Outcomes

Notwithstanding the documented patterns of abuse, it is essential to acknowledge that structured discretion has enabled positive governance outcomes in appropriate contexts. Comparative analysis reveals that properly

constrained discretion can enhance administrative effectiveness. (AKANNI, 2023, pp. 74-84) In India, the Supreme Court has developed a "doctrine of legitimate expectation" that constrains discretion while preserving administrative flexibility, requiring agencies to honour representations made to citizens unless overriding public interest dictates otherwise (Sahai, 2018). In South Africa, the Promotion of Administrative Justice Act 3 of 2000 codifies the standards for discretionary decision-making, requiring that discretion be exercised "reasonably" and that written reasons be provided for all administrative decisions affecting rights (Republic of South Africa, 2000). These frameworks demonstrate that discretion and accountability are not inherently antagonistic; rather, properly structured discretion can enhance governance by enabling context-sensitive application of general rules. (Fagbadebo & Ruffin, 2019) The Nigerian case reveals that discretion's negative outcomes stem primarily from the absence of such structuring mechanisms, not from discretion per se.

The fifth major finding is that a weak information culture contributes to poor administrative decision-making. The absence of documentation requirements, centralised information systems, and decision-recording protocols enables inconsistent decisions and prevents meaningful review (Olumuyiwa et al., 2025). This finding confirms the importance of information infrastructure for accountable discretion. When decisions are not recorded with reasons, officials cannot be held accountable for their reasoning, and review bodies cannot assess whether decisions were lawful and reasonable. The solution requires establishing mandatory protocols for decision recording, implementing digital case management systems, and training officials in evidence-based decision-making. (Criminal Procedure Code, 2013)

The sixth major finding is that political interference systematically distorts bureaucratic judgment across all domains of administrative decision-making. Governors and other political actors exert influence over indigeneship certification, enforcement decisions, and other administrative outcomes. This finding reveals that political interference is not an occasional aberration but a systematic feature of Nigerian public administration. The solution requires strengthening bureaucratic autonomy through civil service protections, insulating certain decisions from political direction, and establishing independent oversight bodies. (Waddell, 2026) These findings demonstrate that the tension between bureaucratic discretion and the rule of law in Nigeria constitutes a practical governance crisis with tangible consequences for citizens' rights and public trust, rather than a purely theoretical issue. The persistence of discretionary abuse across multiple administrative domains indicates that the problem is structural rather than individual. Addressing this challenge necessitates comprehensive institutional reform rather than isolated interventions. (Amin et al., 2024, pp. 1-15)

## CONCLUSION

This study provides a critical examination of the tension between bureaucratic discretion and the rule of law in Nigerian public administration, with particular emphasis on how administrative decision-making processes uphold or undermine constitutional governance principles. The central finding is that Nigerian public administration operates with broad discretionary powers but with systematically inadequate legal constraints, producing patterns of arbitrary, discriminatory, and politically influenced decision-making that violate rule-of-law principles. The study identified three critical domains where discretionary abuse is particularly severe. First, in indigeneship certification, unstructured discretion enables discrimination on ethnic and religious grounds because statutory guidance is absent and officials apply informal discriminatory norms (Ehrhardt, 2017). Second, in regulatory enforcement, selective enforcement reflects political connections rather than legal requirements, with politically connected operators protected and vulnerable operators targeted (Ackrill et al., 2023). Third, in executive clemency, unlimited discretion operates without legal constraints, enabling decisions that undermine judicial finality and the anti-corruption mandate (Ihemadu, 2026).

The study further identified that administrative tribunals lack the independence necessary to provide effective remedies for discretionary abuse (Eledalechi, 2025), information culture deficits prevent accountable decision-making (Olumuyiwa et al., 2025), and political interference systematically distorts bureaucratic judgment across all domains (Titus, 2025). These problems are structural rather than individual, reflecting institutional design failures rather than merely inadequate implementation. The theoretical implications of this study are significant. It confirms the predictions of Street-Level Bureaucracy Theory: discretion without accountability produces outcomes that diverge from legal requirements. It extends the Administrative Justice Framework by demonstrating that review mechanisms must be independent, accessible, and adequately resourced to be

effective. It reinforces the Rule of Law Constraints Theory by showing that weak constraints across multiple dimensions produce systematic discretionary abuse.

The policy implications are equally significant. Achieving reconciliation between bureaucratic discretion and the rule of law requires comprehensive institutional reform. Legal standards must be clarified to guide discretion. Procedural requirements must be strengthened to structure discretion. Genuinely independent review mechanisms must be established to constrain discretion. Digital accountability systems must be implemented to document and monitor discretion. Bureaucratic autonomy must be protected from political interference. Without these reforms, bureaucratic discretion in Nigeria will continue to operate as a tool for discrimination, political patronage, and arbitrary decision-making rather than as a mechanism for flexible, context-sensitive governance.

## **Recommendations**

### **Codification of Discretionary Guidelines**

Based on the finding that unstructured discretion in indigeneship certification enables discrimination on ethnic and religious grounds, it is recommended that the National Assembly enact legislation defining "indigene" on objective criteria, with residence for a specified period as the primary determinant. The legislation should require written reasons for all indigeneship decisions, establish a right of appeal to an independent tribunal, and prohibit consideration of ethnicity or religion in eligibility determinations. The implementing bodies are the National Assembly (legislation), the Federal Character Commission (guidelines development), and state governments (implementation).

### **Independent Administrative Review Mechanism**

Based on the finding that administrative tribunals lack independence and effectiveness, it is recommended that a National Administrative Review Tribunal be established with jurisdiction over all administrative decisions affecting citizens' rights. The tribunal must be independent of the agencies whose decisions it reviews, with members appointed through a transparent process, security of tenure, adequate resources for effective operation, and the power to issue binding decisions, including compensation for unlawful administrative action. The implementing bodies are the National Assembly (establishing legislation), the Presidency (appointments), and the National Judicial Council (oversight).

### **Digital Accountability and Information Systems**

Based on the finding that weak information culture enables inconsistent decisions and prevents meaningful review, it is recommended that an integrated digital case management system be implemented across all federal and state government ministries, requiring mandatory documentation of all administrative decisions with stated reasons, digital record-keeping with audit trails, and public access to anonymised decisions to enable pattern monitoring. The implementing bodies are the National Information Technology Development Agency (technical infrastructure), the Office of the Head of the Civil Service of the Federation (policy coordination), and individual ministries (implementation).

### **Structured Discretion Framework**

Rather than eliminating discretion, this study recommends a structured discretion framework that preserves administrative flexibility while ensuring accountability. This framework includes: (a) tiered discretion levels, where low-stakes decisions receive minimal procedural requirements while high-stakes decisions (affecting citizenship, liberty, or property) require documented reasoning and review rights; (b) guided discretion through published guidelines that establish presumptive outcomes while permitting departure with stated justification; and (c) discretion audits, where oversight bodies periodically review discretionary decision patterns to identify systemic biases without second-guessing individual judgments. This approach, successfully implemented in the United Kingdom's Administrative Justice and Tribunals Council model, reconciles the efficiency benefits of discretion with rule-of-law requirements (Administrative Justice and Tribunals Council, 2011).

## Contribution to Knowledge

This study makes three significant contributions to knowledge in public administration, administrative law, and Nigerian governance studies. First, it provides comprehensive empirical evidence from multiple administrative domains (indigeneship certification, regulatory enforcement, executive clemency) demonstrating how unstructured bureaucratic discretion produces systematic violations of rule-of-law principles. This evidence extends existing case-specific analyses to a comparative framework, identifying common patterns across domains. Second, the study advances theoretical understanding by integrating Street-Level Bureaucracy Theory, Administrative Justice Framework, and Rule of Law Constraints Theory into a unified analytical framework for diagnosing discretionary abuse and designing institutional reforms. This theoretical integration provides a model for future research on administrative discretion in developing country contexts. Third, the study provides concrete, evidence-based reform recommendations addressing legal constraints, institutional capacity, and accountability mechanisms, offering actionable guidance for policymakers, civil society advocates, and international development partners seeking to strengthen administrative justice in Nigeria.

## Ethical Usage of AI

Artificial intelligence tools were employed in this study strictly as assistive technologies to enhance research efficiency and quality, not as substitutes for human intellectual contribution, judgment, or responsibility. AI-assisted literature search and organisation was used to identify relevant sources from academic databases, though all source selection, reading, interpretation, and citation decisions remained under the author's direct control. AI-assisted grammar and style checking was applied to improve clarity and readability of the final manuscript while preserving the author's original arguments, structure, and voice. No AI-generated text was incorporated without critical review, editing, and approval by the author, who assumes full responsibility for all content, arguments, conclusions, and any errors or omissions. AI was not used for data collection, interview transcription, coding, thematic analysis, or any analytical task requiring contextual understanding, ethical judgment, or interpretive reasoning. The author confirms adherence to relevant institutional, disciplinary, and journal guidelines on AI use.

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