

Judicial Protection of Fundamental Rights in Nigeria: Doctrine, Practice and Challenges

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ABSTRACT

The effectiveness of constitutional rights depends not only on their formal recognition but also on accessible procedures, independent adjudication, workable remedies and compliance with judicial outcomes. This article examines the legal and institutional framework for judicial protection of fundamental rights in Nigeria between 1999 and 2025. It adopts a qualitative doctrinal methodology, supplemented by limited comparative analysis and contextual use of institutional and empirical evidence. Primary materials include the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Fundamental Rights (Enforcement Procedure) Rules 2009 (FREP Rules), the Administration of Criminal Justice Act 2015, the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, the Legal Aid Act 2011, the National Human Rights Commission Act, relevant constitutional alterations, reported judgments of Nigerian appellate courts and selected decisions of the ECOWAS Community Court of Justice. Secondary materials comprise peer-reviewed scholarship, socio-legal studies, institutional reports and authoritative legal commentary.

The article develops a three-dimensional analytical framework comprising normative protection, procedural access and remedial implementation. It argues that this framework provides a more complete basis for assessing judicial protection than an approach concerned only with the existence of constitutional rights or the number of rights-protective judgments. The analysis shows that Nigerian constitutional jurisprudence has progressively reduced procedural barriers to rights litigation, clarified jurisdictional questions, expanded opportunities for public-interest litigation and strengthened the remedial orientation of fundamental-rights proceedings. Decisions including *Abacha v. Fawehinmi*, *Federal University of Technology, Minna v. Olutayo*, *Centre for Oil Pollution Watch v. NNPC*, *Human Rights & Empowerment Project Ltd/Gte v. President of the Federal Republic of Nigeria* and *Total Exploration & Production (Nig.) Ltd v. Okwu* illustrate important aspects of this development.

Significant implementation problems remain. Institutional and empirical evidence points to continuing difficulties involving judicial delay, unequal access to legal representation, financial barriers, pre-trial detention, inadequate institutional capacity and non-compliance with judicial decisions. The National Human Rights Commission reported 3,724,822 complaints received through its offices nationwide in 2025. This figure is treated cautiously as an indicator of demand for human-rights intervention rather than evidence of 3,724,822 established violations. Similarly, Legal Aid Council statistics demonstrate substantial institutional activity but do not establish that the legal needs of all indigent Nigerians are being met. The article concludes that Nigeria's principal challenge increasingly concerns the conversion of formal constitutional guarantees into timely, accessible and enforceable remedies. It recommends effective implementation of judicial financial autonomy, stronger judgment-enforcement mechanisms, expansion of legal aid, rights-sensitive case management, improved institutional cooperation between the judiciary and the NHRC, and periodic evidence-based review of the FREP Rules.

Keywords: Fundamental rights; judicial protection; Nigeria; constitutionalism; judicial review; access to justice; public-interest litigation; African Charter; rule of law.

INTRODUCTION

Fundamental rights occupy a central place in constitutional democracy because they impose legal limits on governmental power and protect human dignity, liberty and autonomy. In Nigeria, Chapter IV of the Constitution

of the Federal Republic of Nigeria 1999 (as amended) provides the principal constitutional framework for the protection of fundamental rights. These include the rights to life, dignity of the human person, personal liberty, fair hearing, privacy, freedom of thought and religion, freedom of expression, peaceful assembly and association, freedom of movement, freedom from discrimination, and the right to acquire and own immovable property. Sections 33–44 contain the substantive guarantees, while section 46 provides the principal constitutional mechanism for their enforcement.

The constitutional arrangement is significant because rights protection is not left exclusively to political institutions. Section 6 vests judicial powers in the courts, while section 46 empowers the High Court to determine applications for redress where a person alleges that a provision of Chapter IV has been, is being or is likely to be contravened. The constitutional design thus places the judiciary at the centre of translating rights from formal guarantees into enforceable remedies.

Nigeria nonetheless presents a significant tension between constitutional guarantees and their practical protection. The country has a detailed catalogue of constitutionally protected civil and political rights, a specialized procedural regime under the FREP Rules, a domesticated regional human-rights instrument in the African Charter, and a substantial body of appellate jurisprudence. At the same time, serious human-rights concerns continue to be reported by national institutions and other monitoring bodies.

The National Human Rights Commission (NHRC) reported more than two million complaints in its 2024 overview and 3,724,822 complaints in its 2025 dashboard. The latter figure represented complaints received across its offices nationwide. These figures require methodological caution. A complaint is an allegation or report presented to a human-rights institution; it is not necessarily a substantiated violation, a judicially established breach or a successful claim. Even so, the scale of reported complaints points to substantial demand for accessible mechanisms of human-rights protection.

The problem, therefore, is not adequately captured by asking whether fundamental rights are constitutionally protected. The more difficult question is whether the Nigerian justice system can provide timely, affordable, accessible and enforceable remedies when those rights are violated. The distinction between formal protection and effective protection provides the central analytical premise of this article.

The article evaluates judicial protection at three interconnected levels. The first is normative protection, which concerns the constitutional, statutory and regional rules that recognize and protect rights. The second is procedural access, which concerns the ability of individuals and groups to invoke those rights before competent institutions without unnecessary technical, financial or jurisdictional barriers. The third is remedial implementation, which concerns the speed, adequacy and actual enforcement of judicial remedies.

This three-dimensional framework constitutes the principal analytical contribution of the article. Existing scholarship has examined constitutional rights, judicial interpretation and the FREP Rules from different perspectives. The present study brings these strands together by arguing that effective judicial protection should be assessed across the complete pathway from recognition of a right, through access to adjudication, to implementation of the resulting remedy. A rights-protective judgment that cannot be obtained promptly or implemented effectively represents incomplete constitutional protection.

The study covers the period 1999–2025, beginning with the commencement of the current constitutional order and ending with developments recorded during 2025. Particular attention is given to developments following the adoption of the FREP Rules in 2009 and to selected jurisprudential and institutional developments between 2020 and 2025.

The article addresses five questions:

1. What is the constitutional, statutory and regional legal framework for judicial protection of fundamental rights in Nigeria?
2. To what extent have Nigerian courts developed rights-protective jurisprudence since 1999?

3. How have the FREP Rules affected access to judicial remedies?
4. What institutional and structural factors limit the effectiveness of judicial protection?
5. What reforms are necessary to bridge the gap between constitutional rights on paper and their practical enjoyment?

The fundamental argument is that Nigerian judicial protection has experienced substantial doctrinal and procedural development, but jurisprudential progress has not been matched by equivalent progress in institutional accessibility and implementation. The future effectiveness of fundamental-rights protection therefore depends not only on further judicial development but also on reforms affecting court administration, legal aid, judicial finance, case management and compliance by public authorities.

METHODOLOGY

Research Design

The article adopts a qualitative doctrinal legal research design, supplemented by limited comparative analysis and contextual empirical evidence. The doctrinal component is appropriate because the principal object of the inquiry is to determine the content, development and practical implications of constitutional and statutory rules governing judicial protection of fundamental rights in Nigeria.

A purely doctrinal examination, however, cannot adequately determine whether rights protection is effective in practice. Institutional statistics, socio-legal studies and official policy documents are therefore incorporated as contextual evidence. These materials are not treated as a representative national empirical dataset. Instead, they are used to test and contextualize the central proposition that effective judicial protection depends upon accessibility, timeliness and implementation.

The research consequently proceeds through three dimensions: the legal rules establishing rights and jurisdiction; judicial interpretation and application of those rules; and the institutional conditions affecting access to and implementation of judicial remedies.

Sources of Data

Primary legal materials comprise the Constitution of the Federal Republic of Nigeria 1999 (as amended); the FREP Rules 2009; the Administration of Criminal Justice Act 2015; the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act; the Legal Aid Act 2011; the National Human Rights Commission Act; relevant constitutional alterations; reported decisions of the Supreme Court and Court of Appeal; and selected decisions of the ECOWAS Community Court of Justice.

Secondary materials comprise peer-reviewed journal articles, scholarly books, socio-legal research, institutional reports and authoritative legal commentary.

The empirical component draws selectively upon institutional materials from the National Judicial Council, Legal Aid Council and National Human Rights Commission, together with empirical studies by Ayuba (2019), Frynas (2001), Okoro (2022) and other relevant scholars. These materials are interpreted according to the methodological design of the original studies rather than treated as directly comparable datasets.

For example, Frynas's (2001) study was based on a survey of 154 Nigerian legal practitioners, analysis of Nigerian court cases and two field visits. Ayuba's (2019) study employed questionnaires, in-depth interviews and focus-group discussions in examining delayed justice in Katsina State. The studies therefore provide empirical insight into particular dimensions of access and delay, but their findings are not generalized statistically to the Nigerian judiciary as a whole.

Selection and Analysis of Cases

Cases were selected purposively where they satisfied at least one of four criteria: they established or clarified a

constitutional principle concerning fundamental rights; materially affected access to rights litigation; demonstrated judicial engagement with public-interest or socio-economic rights; or illustrated a structural challenge affecting effective rights protection.

Greater weight is accorded to Supreme Court decisions because of their hierarchical precedential authority, followed by decisions of the Court of Appeal. Decisions of the ECOWAS Community Court of Justice are considered within their distinct regional legal framework.

The cases are therefore not presented as a statistically representative sample of Nigerian rights litigation. They are treated as doctrinal indicators through which significant developments and limitations in rights protection can be examined.

Analytical Framework

The study employs a law-in-books/law-in-action framework, developed through the three-dimensional model of normative protection, procedural access and remedial implementation. The law-in-books dimension examines constitutional and statutory rules formally guaranteeing rights. The law-in-action dimension considers how those rules operate through litigation, judicial interpretation, institutional capacity and compliance with remedies.

This distinction matters because the existence of a constitutional remedy does not necessarily establish its practical effectiveness. Section 287 of the Constitution, for example, requires enforcement of judgments of superior courts, but the practical effect of that constitutional command depends upon institutional compliance and available enforcement mechanisms. The empirical evidence is therefore used as a diagnostic component of the law-in-action analysis rather than as a substitute for doctrinal legal analysis.

Scope and Limitations

The study is confined mainly to judicial protection of rights within Nigeria's constitutional framework between 1999 and 2025. It does not constitute a statistical study of all fundamental-rights cases filed in Nigerian courts. The institutional data used in the study also have important limitations. NHRC complaint figures measure reports received by the Commission, not judicially established violations. Legal Aid Council case figures measure institutional activity, not total unmet legal need. Similarly, studies such as Frynas (2001) and Ayuba (2019) examine specific populations or jurisdictions and cannot automatically be generalized nationally.

The selected appellate cases also disproportionately represent disputes that progressed sufficiently to reach higher courts. They therefore cannot capture all rights violations, particularly those involving indigent persons who lack legal representation or access to courts. This limitation reinforces the article's argument that accessibility is an essential component of effective judicial protection.

Constitutional And Legal Framework For Judicial Protection

Constitutional Entrenchment of Fundamental Rights

Chapter IV of the 1999 Constitution constitutes the central domestic source of enforceable fundamental rights. Sections 33–44 provide substantive protection, while section 45 recognizes limited circumstances in which certain rights may lawfully be restricted. Section 46 provides the principal constitutional mechanism for judicial enforcement.

The significance of section 46 is twofold. It confirms that the rights contained in Chapter IV are judicially enforceable rather than merely aspirational, and it establishes a procedural bridge between constitutional entitlement and judicial remedy. The adoption of the FREP Rules subsequently sought to make that jurisdiction more accessible.

The rights protected by Chapter IV are nevertheless subject to constitutionally prescribed limitations. Section 45 permits legislative measures that are reasonably justifiable in a democratic society for specified purposes, including defence, public safety, public order, public morality and public health. Judicial protection therefore

involves not only determining whether a right exists but also examining whether an interference falls within a constitutionally permissible limitation. Legality, reasonableness, proportionality and procedural fairness consequently form important dimensions of rights adjudication.

Jurisdiction of the High Courts

A significant jurisdictional issue in fundamental-rights litigation concerns the respective competence of State and Federal High Courts. In *Federal University of Technology, Minna v. Olutayo*, the Supreme Court reaffirmed that fundamental-rights enforcement under section 46 is not restricted by the ordinary assumption that a dispute involving a federal institution must necessarily be brought before the Federal High Court. The Court recognized concurrent jurisdiction in fundamental-rights proceedings under the constitutional framework.

The importance of the decision extends beyond the immediate dispute. Restrictive interpretations of jurisdiction may impose geographical, financial and procedural barriers upon rights claimants. A rights-sensitive interpretation of section 46 therefore supports the constitutional objective of ensuring practical access to remedies.

Section 251 remains relevant because it confers exclusive jurisdiction on the Federal High Court in specified federal matters. The relationship between sections 46 and 251 must consequently be determined contextually rather than through the assumption that every claim involving a federal institution automatically belongs to the Federal High Court.

The African Charter as a Complementary Rights Framework

Nigeria follows a generally dualist approach to treaties. Section 12(1) of the Constitution provides that treaties do not automatically have domestic legal force merely because Nigeria has ratified them internationally. Legislative enactment is required.

The African Charter occupies an important position because it was domesticated through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. In *Abacha v. Fawehinmi* (2000), the Supreme Court confirmed that the domesticated Charter forms part of Nigerian law and may be enforced by Nigerian courts.

The Charter is significant because its catalogue extends beyond the constitutional rights expressly contained in Chapter IV and includes economic, social and cultural as well as peoples' rights. It consequently provides an additional legal framework for rights protection.

This is particularly relevant to socio-economic rights. Although Chapter II contains important objectives concerning welfare, education, health, economic opportunity and social justice, the constitutional framework substantially restricts their direct judicial enforcement. The domesticated African Charter may therefore provide an additional legal basis for claims where relevant Charter rights are applicable.

Empirical Indicators Of The Effectiveness Of Judicial Protection

Judicial protection of fundamental rights cannot be assessed adequately by examining constitutional guarantees, judicial doctrines or the availability of remedies alone. Effectiveness depends on whether individuals can obtain judicial remedies within a reasonable period, secure competent legal representation and obtain compliance with judicial decisions and orders.

Accordingly, this article conceptualizes effectiveness through three principal indicators: timeliness of judicial remedies, accessibility of legal representation, and implementation of judicial remedies.

The approach is consistent with the National Judicial Council's policy framework, which treats delay and case management as institutional justice-delivery concerns. The NJC policy calls for case-flow matrices, case-tracking registers, strategies for clearing civil cases pending for more than three years and criminal cases pending for more than 18 months. It also provides for fast-track treatment of fundamental-rights cases.

The evidence presented below should not be understood as establishing a single national statistical measure of judicial effectiveness. It identifies observable institutional conditions that affect the movement from formal rights to practical remedies.

Timeliness of Judicial Remedies

Timeliness is a central component of effective judicial protection. A fundamental-rights remedy granted only after prolonged litigation may provide little practical protection, particularly where the violation involves unlawful detention, restrictions on liberty, freedom of expression, personal security or other rights for which delay may itself perpetuate the injury.

The Nigerian constitutional framework recognizes the importance of timely adjudication through section 36, while the FREP Rules seek to facilitate effective and efficient enforcement of Chapter IV rights. The NJC has consequently adopted case-management policies requiring time targets, backlog reduction and fast-track treatment of fundamental-rights cases.

Empirical research reinforces this institutional concern. Ayuba's (2019) study of delayed justice in Katsina State used questionnaires, in-depth interviews and focus-group discussions. The study found widespread dissatisfaction with court performance and identified inadequate facilities and personnel, poor remuneration and welfare, political interference, judicial ineptitude and alleged corrupt practices among perceived causes of delay.

The methodological value of Ayuba's research lies in its inclusion of justice-system users and stakeholders. Its findings should not, however, be generalized mechanically to every Nigerian court. They provide evidence that delay is experienced as a practical justice problem rather than merely a doctrinal concern.

The problem is also reflected in the institutional response of the NJC. Its policy requires judicial-performance monitoring, case-disposal targets, explanations for cases exceeding prescribed periods and action plans for clearing backlogs. The policy further calls for annual judicial-system audits and surveys of effectiveness and efficiency.

For purposes of future empirical evaluation, timeliness may be operationalized through indicators such as: average duration of fundamental-rights proceedings; age of pending fundamental-rights cases; number and frequency of adjournments; time between filing and judgment; backlog of fundamental-rights cases; compliance with case-disposal targets; and time required to obtain and execute a final remedy.

Frynas (2001) adds an access dimension. His study of 154 Nigerian legal practitioners, combined with analysis of court cases and fieldwork, found financial constraints and inadequate education and information among important barriers to access to courts. The implication is that delay cannot be considered independently of the economic and informational conditions under which litigation occurs.

Timeliness should nevertheless be interpreted carefully. Delay does not establish that every judicial remedy is ineffective, just as faster case disposal does not automatically establish better rights protection. The stronger inference is that persistent and institutionally recognized delay constitutes a structural constraint upon effective judicial protection.

Accessibility of Legal Representation

The second indicator concerns the extent to which individuals, particularly indigent and vulnerable persons, can obtain competent legal representation. Formal access to a court does not necessarily amount to meaningful access to justice. Fundamental-rights litigation may involve complex constitutional, evidentiary and procedural questions that place unrepresented litigants at a significant disadvantage.

Frynas's (2001) empirical investigation is particularly relevant. The study found that financial difficulties and inadequate education and information were significant barriers to access to courts. The finding supports the proposition that legal rights are partly mediated by socio-economic resources.

The Legal Aid Council of Nigeria (LACON), established under the Legal Aid Act 2011, represents the principal statutory mechanism for addressing this problem. Recent administrative evidence demonstrates significant institutional activity. LACON reported handling 6,709 cases in 2023 and 7,140 cases in 2024. Of the 2023 cases, 4,120 were reportedly concluded, including criminal and civil matters.

These figures are useful as institutional-output indicators, but they should not be interpreted as evidence that legal representation is universally accessible. The number of cases handled does not reveal the total population requiring assistance, the number excluded by eligibility requirements, unmet demand, geographical disparities or the quality of representation.

Earlier institutional reporting also illustrates the capacity of legal aid to address fundamental-rights problems. In 2022, the Attorney-General of the Federation reported that the Legal Aid Council had processed legal-aid services for 57,134 citizens during the relevant reporting period, while its Special Task Force had filed fundamental-rights applications for 101 awaiting-trial inmates. The Police Duty Solicitors Scheme was also reported to be operating in 11 states and to have diverted more than 7,000 persons from the criminal-justice system.

These figures should be read as evidence of institutional reach during a particular reporting period rather than as proof of present nationwide coverage.

Okoro's (2022) qualitative study provides additional insight into the accessibility problem. Based on semi-structured interviews with 22 participants comprising legal-aid providers, recipients and other stakeholders, the study identified financial constraints, awareness, eligibility requirements, application procedures, availability of services and demographic factors as significant determinants of access to legal aid.

Afrobarometer evidence similarly demonstrates that cost and availability remain perceived barriers to access to justice in Nigeria. In its Nigerian survey material, respondents identified expensive lawyers, court costs, absence of legal aid or free legal help, inability to find a lawyer and other institutional barriers among reasons why people may not take cases to court.

Legal representation should therefore be assessed through more than the existence of LACON. Relevant indicators include coverage, eligibility, geographical reach, number of beneficiaries, case-completion rates, quality of representation, awareness and outcomes.

The accessibility question involves both institutional supply and unmet legal need. An increase in the number of cases handled by LACON may demonstrate institutional expansion, but it does not establish that all indigent persons can obtain assistance. Persistent geographical, financial and informational barriers likewise demonstrate that formal legal-aid entitlement does not necessarily translate into effective access.

Implementation of Judicial Remedies

The third indicator concerns whether judicial decisions and orders are actually implemented. Judicial protection is weakened when courts declare rights or issue binding orders but successful litigants cannot obtain compliance.

The distinction between judicial determination and effective remedy is critical. The former concerns the court's pronouncement; the latter concerns whether that pronouncement produces the legally required practical result.

Fabunmi and Akai (1988) emphasized that where judicial orders cannot be effectively enforced, the relevance of the judicial process itself is called into question. Their analysis examined execution of monetary and non-monetary judgments and specifically considered enforcement against government and public administrative bodies.

More recent scholarship reinforces the continuing relevance of this problem. Ibe and Zakari (2023), examining executive disobedience to court orders in Nigeria, identified weak enforcement mechanisms, institutional weaknesses, political considerations and concerns relating to judicial independence among factors undermining compliance. They further argued that persistent executive disregard for court orders can undermine public confidence in the judiciary and the rule of law.

The issue becomes particularly significant where government institutions are respondents. Public authorities possess administrative and financial capacity that can make enforcement against them more complex. Non-compliance therefore extends beyond the individual litigant and raises questions concerning constitutional supremacy, separation of powers and the rule of law.

For purposes of empirical evaluation, implementation can be operationalized through indicators including: the proportion of judgments complied with voluntarily; the time between judgment and actual implementation; the number of enforcement or contempt applications; applications for garnishee, mandamus, attachment or committal; judgment-debt cases involving government; documented instances of executive or administrative non-compliance; and the practical outcome experienced by successful litigants.

The distinction is important because a judicial system may appear productive when measured by judgments delivered while remaining relatively ineffective when measured by remedies implemented. The ultimate beneficiary of judicial protection is the rights-holder, not the court record. A judgment that recognizes unlawful detention but does not secure release, a declaration of unconstitutional governmental conduct that is ignored, or a compensation order that remains unpaid represents only partial protection.

Procedural Transformation Under the Frep Rules 2009

The FREP Rules 2009 constitute one of the most important procedural developments in Nigerian human-rights law. The previous procedural environment was criticized for technicality, restrictive standing requirements and procedural obstacles capable of preventing substantive rights claims from being determined on their merits. Nwauche (2010) identifies the 2009 Rules as a significant departure from this technical orientation.

The Rules introduced a more rights-oriented procedural philosophy. Their objectives include reducing technical barriers, encouraging public-interest litigation and promoting speedy and efficient enforcement of human rights. Their importance is also linked to the nature of many human-rights violations. Such violations may affect groups and communities rather than isolated individuals. Traditional standing requirements can prevent vulnerable communities from obtaining judicial redress where individual victims lack the financial, organizational or legal capacity to litigate.

The decision in *Human Rights & Empowerment Project Ltd/Gte v. President of the Federal Republic of Nigeria* (2022) illustrates this development. The Court of Appeal examined locus standi within the specialized framework of the FREP Rules and recognized the public-interest orientation of the Rules in the context of a claim concerning alleged violations arising from attacks on residents of a community.

The significance of this jurisprudence lies in its recognition that human-rights litigation cannot always be confined to conventional private-interest litigation.

Procedural liberalization does not, however, abolish jurisdictional or substantive requirements. The principal claim must remain connected to the enforcement of a legally protected fundamental right. The FREP Rules are therefore better understood as reducing unnecessary technical barriers rather than eliminating legal discipline.

Contemporary Judicial Practice, 2020–2025

Personal Liberty, Dignity and Fair Hearing

Personal liberty remains a major area of fundamental-rights enforcement in Nigeria. Section 35 protects individuals against arbitrary arrest and detention, while section 34 protects dignity and prohibits torture and cruel, inhuman or degrading treatment.

These protections are particularly important in the context of pre-trial detention, police abuses and security-related detention. Institutional reporting by the NHRC continues to identify insecurity, killings, gender-based violence, discrimination and other rights concerns.

The protection of liberty is also connected with criminal-procedure reform. The Administration of Criminal Justice Act 2015 introduced mechanisms intended to regulate remand proceedings and prevent indefinite detention. Section 296 establishes judicial supervision and time-related safeguards in remand proceedings.

The significance of the ACJA is therefore not that it eliminates pre-trial detention but that it subjects detention to judicial and statutory controls. Continuing instances of prolonged detention demonstrate, however, that legislation alone cannot resolve a problem involving police investigation, prosecution, judicial case management and custodial capacity.

Public-Interest Litigation and Access to Justice

Public-interest litigation represents an important development in Nigerian rights jurisprudence. In *Centre for Oil Pollution Watch v. Nigerian National Petroleum Corporation* (2019), the Supreme Court adopted a liberal approach to standing in public-interest environmental litigation.

Although the case concerned environmental protection rather than a conventional Chapter IV claim, its broader significance lies in its implications for access to justice. Public-interest litigation can reduce the practical burden on individuals and communities that lack the resources, information or organizational capacity to litigate individually.

The FREP Rules complement this development by expressly recognizing public-interest litigation in human-rights proceedings. Together, these developments indicate movement away from an excessively individualistic conception of judicial access.

Freedom of Expression, Assembly and Civic Participation

Sections 39 and 40 protect freedom of expression and peaceful assembly and association. Nigerian courts have historically played an important role in determining the permissible scope of restrictions on civic participation.

In *Inspector-General of Police v. All Nigeria Peoples Party* (2007), the Court of Appeal considered the requirement of police permission for public rallies and held that the requirement was inconsistent with constitutional protection of peaceful assembly.

The continuing relevance of the decision lies in the need to reconcile public-order regulation with constitutional freedoms. Law-enforcement agencies must address genuine threats to public safety without transforming regulation into suppression of peaceful expression and assembly.

Procedural Liberalization and Joint Applications

The Supreme Court's decision in *Total Exploration & Production (Nig.) Ltd v. Okwu & Ors.* (2024) represents an important contemporary development in fundamental-rights procedure.

The case concerned the permissibility of joint fundamental-rights applications. The Court's approach recognizes the practical reality that rights violations may affect several persons in substantially similar circumstances.

The decision is significant because requiring every victim to commence a separate proceeding may multiply costs and delay adjudication. Collective or joint proceedings, where legally permissible, can therefore promote procedural economy and facilitate access to justice.

Socio-Economic Rights and Constitutional Justiciability

The protection of socio-economic rights presents a more complicated challenge. Chapter II contains extensive objectives concerning welfare, education, health, economic opportunity and social justice. Constitutional restrictions, however, substantially limit direct judicial enforcement of those objectives.

This tension has generated continuing academic debate concerning whether courts may protect socio-economic interests indirectly through enforceable constitutional rights, legislation, the African Charter and administrative-law principles.

Faga et al. (2020) examine this issue through comparative analysis of South African and Indian experiences. Comparative jurisprudence demonstrates that courts may develop techniques for addressing socio-economic claims while respecting institutional boundaries.

The Nigerian judiciary should nevertheless remain anchored in constitutional text, enacted legislation and domesticated international obligations rather than assuming unrestricted policy-making authority.

Mike (2023) similarly demonstrates how judicial intervention may contribute to advancing the right to health where claims can be connected to existing constitutional, statutory or international legal obligations.

Structural Challenges To Effective Judicial Protection

The empirical indicators identified above point to structural conditions that constrain the practical operation of rights. These conditions help explain the gap between normative protection and effective protection.

Delay and Effective Remedies

Delay is a major challenge because a right to judicial redress has limited practical value if a case takes years to determine. The problem is particularly acute in fundamental-rights litigation involving detention, torture or continuing restrictions on liberty.

The FREP Rules recognize the importance of speedy enforcement, while the NJC policy expressly places fundamental-rights cases on the fast track and calls for case-flow management and backlog reduction.

The persistence of delay nevertheless demonstrates that procedural reform cannot substitute for adequate judicial personnel, infrastructure, case-management systems and effective institutional coordination.

Cost and Inequality of Access

The formal availability of a court does not necessarily mean that citizens enjoy meaningful access to it. Litigation involves filing expenses, transportation, legal representation, documentation, time and opportunity costs.

These burdens disproportionately affect poor and geographically isolated citizens. Frynas's empirical study demonstrates the significance of financial and informational barriers, while Afrobarometer evidence similarly identifies cost and availability of legal assistance as perceived barriers to court access in Nigeria.

The Legal Aid Council provides an important institutional response, but the evidence suggests that legal aid must be assessed in terms of coverage and unmet need rather than institutional existence alone.

Executive and Administrative Non-Compliance

Judicial protection ultimately depends upon compliance with judicial decisions. Section 287 of the Constitution requires decisions of superior courts specified in the provision to be enforced by the relevant authorities, persons and subordinate courts.

This constitutional duty reflects a fundamental rule-of-law principle: an administration that can disregard final judicial decisions can effectively nullify judicial review.

The authority of *Military Governor of Lagos State v. Ojukwu* (1986) remains relevant because the Supreme Court rejected executive self-help and emphasized obedience to judicial authority.

Contemporary scholarship confirms that executive disobedience remains an institutional concern. Ibe and Zakari (2023) identify weak enforcement mechanisms and institutional and political factors as contributors to non-compliance.

Judicial Financial Independence

Judicial independence requires more than security of tenure and decisional independence. Courts also require adequate and predictable financial resources.

Nigeria made an important constitutional intervention through the Fifth Alteration (No. 6) Act 2023, which altered section 121 concerning the financial autonomy of State Judiciaries.

The reform is significant because it seeks to reduce executive control over judicial finances. Okaisabor (2025), however, demonstrates that legal recognition of fiscal autonomy does not automatically guarantee practical institutional independence. The policy objective must therefore extend beyond constitutional amendment to implementation through transparent budgeting, direct disbursement, institutional accountability and appropriate oversight.

Pre-Trial Detention and Criminal-Justice Administration

Protection of personal liberty cannot be separated from the wider criminal-justice system. Even where courts diligently enforce section 35, excessive pre-trial detention may persist because of police investigative practices, inadequate prosecution, custodial congestion, judicial workload and repeated adjournments.

The ACJA 2015 represents an important legislative response. Its effectiveness, however, depends upon consistent compliance by police, prosecutors, correctional institutions and courts.

The National Human Rights Commission And Judicial Protection

Judicial protection does not operate in institutional isolation. The National Human Rights Commission constitutes an important complementary mechanism for the promotion, protection and enforcement of human rights in Nigeria.

The Commission's statutory functions include monitoring and investigating alleged human-rights violations, assisting victims, conducting studies and reporting on the state of human rights. Its institutional reporting provides useful contextual evidence for evaluating demand for human-rights protection.

The NHRC's December 2025 dashboard reported 3,724,822 complaints received through its 38 offices nationwide. This figure should be described precisely: it represents complaints received, not adjudicated violations.

The distinction is methodologically important because a complaint may subsequently be withdrawn, resolved through mediation, referred to another institution, rejected for insufficient evidence or otherwise disposed of without a judicial finding.

The Commission can therefore perform three complementary functions: Early intervention through investigation, mediation and other administrative remedies;

Referral and support for cases requiring judicial determination; and Systemic monitoring through dashboards, reports and recommendations. A stronger institutional relationship among the NHRC, Legal Aid Council, judiciary, police oversight institutions and civil-society organizations could improve early access to remedies while reducing avoidable pressure on courts.

DISCUSSION: FROM FORMAL RIGHTS TO EFFECTIVE RIGHTS

The analysis shows that Nigeria possesses a developed formal architecture for judicial protection of fundamental rights. The Constitution recognizes enforceable rights; section 46 provides a constitutional enforcement mechanism; the FREP Rules reduce procedural barriers; the African Charter supplements domestic rights protection; and appellate courts have addressed questions of jurisdiction, standing and procedural access.

The principal weakness therefore lies less in the absence of legal norms than in their implementation.

Three dimensions of this gap are particularly important.

First, there is an access gap. Citizens may possess enforceable rights but lack the resources, information or legal assistance required to invoke them.

Second, there is an institutional gap. Courts may issue rights-protective decisions while operating within a justice system affected by delay, inadequate infrastructure, insufficient personnel and administrative constraints.

Third, there is an implementation gap. Even where a claimant obtains a favourable judgment, the practical value of that judgment depends upon compliance by public authorities and other respondents.

The empirical indicators reinforce this conclusion. Evidence of court delay demonstrates that a remedy may lose value through prolonged proceedings. Legal-aid statistics demonstrate institutional activity but also show why output figures should not be confused with universal access. Evidence concerning judgment enforcement demonstrates that the judicial process does not end with the delivery of judgment.

These observations suggest that measuring judicial protection solely by the number of favourable judgments produces an incomplete assessment. A more meaningful evaluation should ask: How accessible is the remedy? How quickly is the case determined?

What remedy does the court provide? Is the judgment complied with? How long does implementation take? Does the judgment produce institutional change? Can similarly situated persons benefit from the precedent?

The approach adopted in this article therefore shifts the assessment of Nigerian judicial protection from a predominantly doctrinal inquiry towards an institutional evaluation of whether constitutional rights can move through the complete chain from recognition, access and adjudication to remedy and implementation.

CONCLUSION

The Nigerian constitutional framework provides substantial formal protection for fundamental rights. Since 1999, Nigerian courts have contributed significantly to constitutional-rights jurisprudence through judicial review, purposive interpretation of procedural rules, public-interest litigation and enforcement of domesticated international human-rights instruments.

The FREP Rules 2009 have been particularly important in transforming the procedural environment of rights litigation. They have reduced the significance of unnecessary technicality, encouraged public-interest litigation and facilitated applications brought on behalf of persons and groups whose ability to litigate independently may be limited.

Decisions such as *Federal University of Technology, Minna v. Olutayo*, *Centre for Oil Pollution Watch v. NNPC*, *Human Rights & Empowerment Project Ltd/Gte v. President of the Federal Republic of Nigeria* and *Total Exploration & Production (Nig.) Ltd v. Okwu* illustrate important dimensions of the evolution of access to justice.

Doctrinal progress, however, has not eliminated the structural obstacles confronting rights protection. Delay, cost, inadequate legal representation, pre-trial detention, financial constraints and non-compliance with judicial decisions continue to weaken the practical effectiveness of constitutional rights.

The central conclusion is that Nigeria's fundamental-rights challenge increasingly concerns implementation rather than recognition alone. The legal framework is sufficiently developed to permit substantial judicial protection, but the institutional environment does not always allow that protection to operate effectively.

A credible programme of constitutional rights protection must therefore move beyond the production of progressive judgments. Citizens must be able to reach competent institutions, obtain decisions within a reasonable time, secure appropriate remedies and obtain actual compliance with those remedies.

The effectiveness of judicial protection should consequently be evaluated not only by the quality of constitutional doctrine but by the complete institutional journey from rights recognition to effective remedy.

RECOMMENDATIONS

Implement Judicial Financial Autonomy

State Governments, State Houses of Assembly, State Accountants-General, State Judicial Service Commissions and heads of the State Judiciary should fully operationalize judicial financial autonomy under section 121(3), as altered by the Fifth Alteration (No. 6) Act 2023. Implementation should be accompanied by transparent budgeting, auditable financial procedures and periodic public reporting.

Strengthen Judgment-Enforcement Mechanisms

The National Assembly and State Houses of Assembly should review existing enforcement and contempt mechanisms to ensure that public authorities cannot disregard final judicial orders without meaningful institutional consequences.

The Offices of the Attorneys-General should establish judgment-compliance units within Ministries, Departments and Agencies to monitor, document and report compliance with judicial decisions.

Expand Legal Aid and Fundamental-Rights Representation

The Legal Aid Council should receive predictable funding and expand geographical coverage, particularly for indigent persons facing unlawful detention, torture, discrimination and other serious rights violations.

The Council should strengthen specialized fundamental-rights units capable of working with the NHRC, Nigerian Bar Association and civil-society organizations.

Strengthen Rights-Sensitive Case Management

The National Judicial Council and relevant judicial authorities should strengthen case-management systems for fundamental-rights applications.

Cases involving personal liberty, torture, unlawful detention and continuing violations should receive appropriate priority consistent with the FREP Rules and NJC case-management policy. E-filing, digital case tracking, electronic service and virtual proceedings should be expanded where appropriate, while safeguards should ensure that technological reforms do not exclude digitally disadvantaged litigants.

Strengthen NHRC-Judiciary-Legal Aid Coordination

The NHRC should establish formal referral and cooperation mechanisms with the judiciary, Legal Aid Council, police oversight institutions and civil-society organizations.

Complaints requiring urgent judicial intervention should be referred promptly where administrative mechanisms cannot provide an adequate remedy. The Commission should also continue improving the methodological transparency of its dashboards by distinguishing clearly between complaints received, complaints investigated, complaints resolved and complaints in which violations were substantiated.

Develop Evidence-Based Socio-Economic Rights Jurisprudence

The judiciary should continue to interpret enforceable constitutional rights, statutes and domesticated international instruments purposively where government action threatens legally protected interests.

Judicial development should nevertheless remain anchored in constitutional text, legislation and recognized legal principles. Courts should avoid assuming unrestricted legislative or executive functions.

Strengthen Public-Interest and Collective Rights Litigation

The judiciary should continue giving effect to the public-interest orientation of the FREP Rules. Where communities or vulnerable groups face common rights violations, representative and joint litigation should be facilitated where constitutional and procedural requirements are satisfied.

The Supreme Court's approach in Total Exploration & Production (Nig.) Ltd v. Okwu provides an important contemporary basis for reducing unnecessary fragmentation of rights litigation.

Institutionalize Human-Rights Training

The National Judicial Institute, Nigeria Police Force, Nigerian Correctional Service, Nigerian Bar Association and NHRC should strengthen continuous human-rights training for judges, prosecutors, police officers, correctional personnel and government lawyers.

Training should focus particularly on arrest and detention, torture, freedom of expression and assembly, discrimination, judicial remedies, contempt of court and compliance with constitutional rights.

Establish Periodic Review of the FREP Rules

The Chief Justice of Nigeria, National Judicial Council, legal profession, academic institutions, Legal Aid Council, NHRC and civil-society organizations should undertake periodic institutional review of the FREP Rules.

The review should examine filing patterns, disposal time, procedural objections, remedies awarded, judgment-compliance rates and barriers experienced by self-represented and indigent applicants.

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