

# **Petroleum Products Scarcity in Abakaliki and the Challenges of Enforcing Administrative Law by the Nigeria Security and Civil Defense Corps (NSCDC Ebonyi State Command)**

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## **Abstract**

This study was carried out to appraise the role played by the Nigerian Security and Civil Defense Corps (NSCDC Ebonyi state command) in controlling crime and civil disobedience especially during the petroleum products scarcity in Abakaliki from 12<sup>th</sup> to 14<sup>th</sup> November, 2014. Public sentiment paradigm and the interest group theoretical perspective were combined to appraise the role played by the corps during the impasse. The interest group theory was adopted for the study, based on its relevance to the working of the NSCDC in Nigeria. The area and population of study were the entire Ebonyi state and its residents that use petroleum products on almost on a daily basis. The sad story is that liberty and freedom to exercise administrative power have often led to administrative vices like impunity, oppression, victimization and so on. This was evident in the hardship suffered by residents of Abakaliki during the misunderstanding between the Ebonyi state command of the Nigerian Security and Civil Defense Corps and the Ebonyi State Petroleum Marketers Association. It is therefore needful to put in place strategies such as strategic public opinion boxes for masses to lodge their grievances on the excessive use of administrative laws to provide checks and balances in the administrative setting and to stimulate remedies for those who become victims of executive or administrative high handedness and misrule.

**Keywords:** Petroleum products, challenges, administrative law, NSCDC.

## **INTRODUCTION**

Administrative law or constitutionalism is the essence of democratic governance and so, any breach of constitutionalism is a step towards undemocratic governance or tyranny because, constitutionalism means literally, rule by the constitution, i.e., rule by the law and administrative law on its part means law made to facilitate or avoid the breach of human rights. In other words, administrative law stands to promote the right of the citizens especially in the area of service delivery.

The most rampant phenomenon ever witnessed in virtually every part of Nigerian today is crime or civil disobedience; it is escalating grossly in higher proportion. Although, civil disobedience is as old as human society itself, it can be traced to the biblical Adam and Eve in the garden of Eden and the primitive pastoral and horticultural societies when Cain and Abel, brought their harvest and gave to the Lord as offering but that of Cain was rejected by God and he became furious and angry which in turn led to the killing of his brother Abel as stated in Genesis (Chapter 14:1-16). This is perhaps the first crime ever recorded in human history.

This as human society continued to evolve from a simply primitive composition to a more developed and complex stage, individual accumulations of wealth increased and crave for ownership of private property also increased. This crave has resulted to criminal and uncivil behaviour which spread and increased in the same proportion with the development of the society. Here in Nigeria and most especially, in the more urbanized areas, the colonial administration evolved institutions of social control to regulate behaviour patterns of members especially in area considered to be so prone to civil disobedience and violence. This was to ensure conformity to the rules necessary for the proper functioning of the British controlled Nigerian society.

It should be noted that, in any democratic setting, the law making power certainly and indeed, rightly belongs to the legislature. This body is represented in Nigeria in form of National Assembly, made up of the Senate and House of Representatives, and House of Assembly at the federal and state levels respectively.

Perhaps, it maybe reiterated that the assignment of law making power to a particular body is founded on John Locke's theory of separation of powers popularized by Montesquieu. No doubt, the same theory necessitated the conferment of executive power on the executive and judiciary, the adjudicatory power. To say the essence of all these is anchored on the need to check anarchy and misuse of power at various levels of governance is about saying the obvious.

Going through the literature however, one cannot but acknowledge the existence of the practice

whereby the executive enjoy considerable law making power in addition to its usual executive power. It is incontrovertible that the practice is a negation of doctrine of separation of powers. As noted earlier, one consequence of this is anarchy. But the practice seems inevitable given the exigency of modern governance. To forestall the negative consequences, certain control mechanisms have been instituted. Prominent among these are the working organs of government i.e. the executive, legislature and judiciary. Of course, the existence of others is not in doubt. This is where the establishment of the Nigeria Security and Civil Defense Corps (NSDC), is not a surprise.

It is the experience however, that the establishment of an institution to achieve a particular purpose is one thing, its efficacy is completely another. This is more so when the dynamics of society is taken into consideration. As such, a routine examination of these mechanisms becomes imperative. In fact, this becomes more imperative in countries like Nigeria where its administrative law, compared with places like United States and Britain, is in its developmental stage. The appreciation of this informs this discourse.

### **Theoretical Explanations of the Role of the Nigerian Security and Civil Defense Corps in Crime and Civil Disobedience Control**

There are divergent but mainly two broad theoretical views on the constitutional role, function and measurement of the conduct of the Nigeria Security and Civil Defense Corps in the society. These are the public sentiment paradigm and the interest group perspective. The two theoretical frames seek to account for the operations of NSDC in Nigeria.

#### **Public sentiment paradigm**

The paradigm states that, crime or disobedience originated from the mores of the society i.e. from the customary habitual ways of behaviour, which is highly valued in the society. It argues that in every society, there is a broad cultural consensus on core or basic values, interests, norms, beliefs, customs, morals, among others, held in common by most members of the society. Public sentiment perspective further argues that criminal law is merely a codification of some of the mores of the society to which are now affected penal sanctions.

In the view of this theory then, Nigeria Security and Civil Defense Corps help in ensuring that laws, which are, shared customs and values of the institutions of the society are translated into legal statues (Haralambos, 1980). Thus, the function forms the raw material from which the NSDC spring up to control the uncivil behaviour within the society.

#### **The interest group paradigm**

The paradigm posits that human society is characterized by conflict of values and interest among opposing groups that make up the society. Those criminal laws grow out of the consequences of power play and clash of interests among the different contending groups in the society (Igbo, 2006). The laws symbolize the defeat of one group by another group in the society. This implies that the particular acts that get criminalized depends on the interest and values of the persons and groups with sufficient powers to impose their own views, interests, values, standards and definitions over those of other groups. The critical factor then is that social power dictates the legal tune in terms of which acts become labeled as uncivil or crime in the society (Igbo, 2006).

### **The Role of the Nigeria Security and Civil Defense Corps in the Society**

NSDC is statutorily empowered by law Act No. 2 of 2003 and amended Act 6 of the 4<sup>th</sup> June, 2007. This 2007 amended act empowers the corps to “maintain 24 hours surveillance over infrastructures, sites and projects for the federal, state and local governments. The corps shall assist in the maintenance of peace and order and in the protection, rescuing of the civil population during the period of emergency. Recommend to the minister, the registration of private guard companies from time to time, inspect the premises of private guard companies, their training facilities and approve same if it is up to standard. Maintain 24hours surveillance over infrastructure; sites and projects for the federal, state and local government (Abolurin, 2008).

#### **NSDC Role: A Critical Appraisal**

There is no doubt that the NSDC has recorded a significant achievement and commitment in discharging their duties without arms. No wonder, Chidozie (2009), observes that NSDC has done satisfactory work in the area like escort public security of well meaning Nigerians and foreigners, carrying out anti-vandalization, arresting and prosecuting of vandals, restoration of riot and conflict areas among others. Commenting on the roles of NSDC, Master Web (2012), reports that officials of the Nigerian security and civil Defense Corps (NSDC), Abia State command arrested seven persons (six men and one lady) for adulterating multiple products, including; finished manufacturing equipments and others at various stages in the adulteration process. Others are; cartons of mobile insecticide, St. Lauren Wine, Seaman’s Schnapps, Seaman’s Branded Dark Rum. In the same vein, Mamaspace.com (2012) reported thus: Illegal Bunkering: Anti-vandalism squad of NSDC, Kogi State sets six

tankers ablaze.

From the foregoing, it is understandable that the Nigeria Security and Civil Defense Corps has done well in all spheres of the country's life and that is why Oche (2006), opines that, the corps has done well in providing security during elections in the Federal Capital Territory (FCT) during the April 10<sup>th</sup> 2010 elections in the six area council, the presence of the corps according to him, made the elections violence free.

Commenting in the same view, Nkanga (2009) postulates that worried by the proliferation of unregistered security companies, NSCDC is saddled with the responsibility of monitoring and supervising the activities of the private guard companies in Nigeria. According to him, men of the NSCDC, Ondo State command, sealed five companies in Akure, which did not register with the command in line with the provisions of section 3(d) of the Nigeria Security and Civil Defense Corps Act (2003) which stipulates that, "all security firms be registered with the NSCDC which also has the power to regulate their activities to prevent infiltration of criminal elements with the private security set up. Abolurin (2008) also observes that the role of the NSCDC in the process is better understood in both international and local contexts. The international context is that Civil Defense Organization exists for doing related work in many other parts of the world. The local context is the 2003 and 2007 Acts establishing and defining the functions of the organization in Nigeria.

Based on the foregoing, it is understandable and observable that the Nigerian security and Civil Defense Corps has performed fairly satisfactory in their assigned role and function but a lot is still expected from them especially in the recent times that the problem of Islamic fundamentalist (Boko Haram) has become almost intractable in Nigeria.

### **Challenges of the Nigeria Security and Civil Defense Corps (NSCDC) in Controlling Crime and Civil Disobedience in Nigeria**

The Nigeria Security and Civil Defense Corps is not properly equipped to enable it perform some roles in the society. Chidozie (2009) observed that, security agent(s) in the world are often the first target of an armed bandit or criminal intent person(s). He further pointed out that since NSCDC has a lopsided relationship with the people who are mostly suspected vandals and criminals in Nigeria; it will be risky on their lives if they are not provided with arms. Also, Oche (2006) had earlier noted that, most communities and groups often partake in act where they use series of weapons to fight each community or government thereby frustrating public and governments efforts.

Also, dearth of manpower has been a great setback to the corps. Lamenting on the inadequacy of manpower in the NSCDC, Okumagba (2003), observed that the United Nations stipulated a ratio of 1:40, which is one security agent attached to 40 citizens and the corps is lacking in this regard.

In his own contribution, Sa'ad (1991), explained "shortage of Nigeria Security and Civil Defense Corps in the country restrains them from effective performance. Since they are not everywhere to detect and prosecute those who break the law". Researchers have also shown that there are some local governments in Nigeria without NSCDC office and so, recruitment into the corps will be an antidote to check increasing wave of violent killings especially Boko Haram's activities in the country. (Esebonu, 2012).

Similarly, corruption has been noted as one of the greatest impediments confronting the NSCDC. Corruption in security operatives is a major cause of community hostility to security agents and which in turn affects their performance. It is an epidemic vice which plagues the ruler and individuals in the various strata of Nigerian society. (Alemika, 1999, Yecho, 2006).

### **Petroleum Products Scarcity in Abakaliki, Ebonyi State and the Role of the Nigerian Security and Civil Defense Corps (NSCDC) in the Application of Administrative Law**

Residents of Abakaliki, the Ebonyi state capital were between Wednesday (12<sup>th</sup> November) and Friday (14<sup>th</sup> November), 2014 hit by fuel and other petroleum products scarcity following a face-off between the Nigerian Security and Civil Defense Corps (NSCDC) and the Ebonyi State Petroleum Marketer Association.

Findings revealed that, the unexpected fuel scarcity in the capital city was said to have been occasioned by the face of between the duos over an alleged "diversion of fuel" by a tanker driver which was impounded by men of the corps.

Worried by the action of the NSCDC, the petroleum marketers closed their sales outlets as a way of compelling NSCDC to release the tanker laden with fuel belonging to one of the marketers in Abakaliki. Following that ugly development, the black marketers sold a liter of fuel at rates ranging from N250 to N300. The harrowing experience led to the astronomical sudden increase in the transportation, food products and other services within the state.

### **How the issue was resolved and the need for a re-think**

Apparently worried by the untold hardship the products scarcity had caused on the residents of the state, the commissioner for commerce and industry and supervising commissioner for information and state orientation, in

the Governor Martin Elechi's led administration, Hon. Ifeanyi Ike, swiftly intervened by visiting the commandant of the NSCDC, Alhaji Waheed Bamidele Waheed Kpokpola during which the seized documents of the products were made available and the product made available and subsequently released.

Dr. Ike however advised petroleum marketers to be wary of unnecessary bickering with security agencies noting that, what happened was not supposed to warrant the stoppage of the sale of petroleum products. Responding on behalf of the NSCDC, the Ebonyi state commandant said his men impounded the tanker while lifting fuel from a petroleum station and because of the inability of the marketer to produce his license immediately.

A peep into the scenario will leave everyone to pause and ponder whether the exercise of discretionary powers in the form of administrative law is actually for the good of the masses. Feelers are therefore worried and concerned that if the incessant use of discretionary powers is left unchecked, that very soon, the masses would be no more and this will be as a result of the unsolved problem arising from exercise of administrative law, who then can help us.

### **Criticisms of administrative law**

According to Okoli (2013), 'where the law ends, discretion begins' and whether or not tyranny will result depends on the mode of the exercise of discretion. Although it has been argued that administrative law encourages flexibility in the act of governance, reduces the workload of the legislature, saves time as to meet up with emergencies and ensures accuracy where technicalities are involved, it is not without its shortfalls. No wonder, therefore, that the criticisms of administrative law have always revolved around this exercise of discretion inherent in delegated powers. These criticisms and disadvantages are summarized thus:

- a. Usurpation of the legislative function of the legislature
- b. Curtailment of the rights of the citizens
- c. Ineffective control of delegated legislation
- d. Inadequate publicity and
- e. Inadequate consultation with interest groups

### **Conclusion**

Indeed, the idea of administrative law or delegation of powers to administrative bodies like the NSCDC has come to stay. In a situation of intractable conflict, the only viable option for the victims has always been to manage it. But, this does not in any way discount or remove the fact that, it is a negation of the theory of separation of powers. And to say that the consequence of this, is the abuse of power is but saying the obvious. There is no doubt that the realization of this informed the creation of various control mechanisms including the three organs of government and security agencies like the Nigerian Security and Civil Defense Corps (NSCDC), among others. But, as it has been earlier noted, one thing is the establishment of these controlling bodies, their efficacy is entirely another.

### **Recommendations**

Given the disdainful consequence and experience of the exercise of administrative law for the time under review and since human ingenuity is yet to fashion out a substitute for it, there is need for concerted efforts to ensure compliance with laid down rules and regulation as that is the only way the rights and property of the citizens can be protected or safeguarded. Government should encourage members of the Nigerian Security and Civil Defense Corps by as a matter of urgency, provide more logistics and more modern and sophisticated equipment that can match, if not surpass, those of armed bandits.

Security agencies in collaboration with judiciary workers should organize seminars or workshops where the public will be educated and enlightened on their judicial rights to approach the court to seek redress for any wrong done to them. This is most urgent as majority of the citizens are not aware of such rights and often shy away from court for fear of the known.

Finally and a matter of urgency, strategies such as strategic public opinion boxes, should be put in place for citizens to lodge their grievances on the excessive use of administrative laws to provide checks and balances in the administrative setting and to stimulate remedies for those who become victims of executives or administrative high handedness and misrule. These boxes should be periodically checked by security agencies and any complain or suggestion be forwarded to the court for necessary interpretation.

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