

COMBATING XENOPHOBIA IN NIGERIA: A CRITICAL EVALUATION OF DOMESTIC, REGIONAL, AND INTERNATIONAL HUMAN RIGHTS INSTITUTIONS*

Abstract

The concept of xenophobia is an extreme dislike or fear of foreigners, their customs and their religion. This study critically evaluates the effectiveness of domestic, regional, and international institutions in protecting non-nationals against xenophobia in Nigeria. Despite the fact that Nigeria possesses a comprehensive legal framework including constitutional guarantees under Chapter IV, domestication of the African Charter on Human and Peoples' Rights, and ratification of key international anti-discrimination treaties, incidents of discriminatory administrative practices and arbitrary treatment persist. Using a doctrinal and analytical methodology, this study examines the roles of Nigerian courts, the National Human Rights Commission, immigration authorities, the ECOWAS Court of Justice, and relevant African human rights bodies. Furthermore, the study highlights gaps between normative commitments and practical enforcement including limited access to remedies, weak coordination between institutions, inconsistent compliance with regional decisions and political insensitivities surrounding migration governance. While Nigeria's framework aligns with international standards, enforcement deficits significantly undermine the protection of non-nationals. Consequently, the study concludes by proposing practical institutional and legislative reforms aimed at strengthening accountability, improving access to justice, and ensuring effective implementation of anti-discrimination norms.

Keywords: Xenophobia in Nigeria, Human Rights Institutions; ECOWAS Court of Justice, African Charter, Enforcement; Migration Governance

1. Introduction

Historically, it could be recalled that in January 1983 the then Nigerian President Shehu Shagari issued an executive order requiring undocumented immigrants, including approximately one million Ghanaians to leave the country within two weeks or face arrest. This mass expulsion, driven by economic downturn and policy became known for the "Ghana Must Go."¹ This situation and other salient unreported discriminatory acts still exist even within Nigerian tribes. Thus, xenophobia understood as hostility, exclusion, or discriminatory treatment directed at individuals perceived as foreigners, presents a subtle yet significant challenge within Nigeria's human rights framework. While Nigeria is often portrayed as a major destination and transit state within West Africa benefiting from regional mobility under the ECOWAS Free Movement regime, its domestic institutional structures have not been systematically interrogated for their capacity to prevent and redress nationality-based discrimination. Incidents involving arbitrary detention of foreign nationals, discriminatory administrative practices, and hostile enforcement of immigration regulations raise important legal questions concerning the adequacy of Nigeria's institutional safeguards. Although Nigeria's constitutional order appears at least normatively to provide robust protection; Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees fundamental rights, many of which apply to "every person"² In addition, the domestication of the African Charter on Human and Peoples' Rights integrates regional non-discrimination standards into domestic law.³ Nigeria has also ratified major international anti-discrimination instruments, including ICERD⁴ and the ICCPR.⁵ These layered commitments suggest the existence of a comprehensive protective architecture.

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¹ The Mail & Guardian <https://atavist.mg.co.za>

² Constitution of the Federal Republic of Nigeria 1999 (as amended) Ss 34–42.

³ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 Laws of the Federation of Nigeria 2004.

⁴ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965

⁵ International Covenant on Civil and Political Rights (ICCPR) 1966.

Despite these normative commitments, enforcement remains inconsistent. Institutional weaknesses, limited access to justice for non-nationals, and insufficient coordination between domestic and regional mechanisms undermine effective protection. It is worthy to note that the mere presence of legal norms does not equate to effective protection rather the critical issue is institutional performance. The questions still remain to what extent do Nigerian courts, the National Human Rights Commission, immigration authorities, and regional judicial mechanisms effectively safeguard non-nationals from xenophobic practices? Are available remedies accessible, enforceable, and responsive? And does Nigeria demonstrate consistent compliance with regional human rights judgments?

This study contends that although Nigeria possesses a formally comprehensive anti-discrimination framework, institutional inertia, fragmented enforcement architecture; a weak compliance culture significantly undermines protection for non-nationals. The problem is therefore not primarily normative deficiency but enforcement deficiency. Adopting a doctrinal and analytical methodology, the study examines constitutional provisions, statutory instruments, judicial authorities, and regional decisions affecting Nigeria. It evaluates institutional effectiveness across domestic and regional levels, with particular emphasis on enforcement realities rather than abstract normative commitments. By situating xenophobia within the broader discourse of institutional accountability, this article contributes a focused Nigerian perspective to existing human rights scholarship and advances concrete reform proposals aimed at strengthening protection mechanisms.

2. Literature Review

Generally, existing scholarship on xenophobia has largely explored the phenomenon through socio-political explanations of anti-foreigner sentiment; normative human rights analyses; and institutional critiques focusing on enforcement deficits. Early studies emphasis the social and economic drivers of xenophobic attitudes, linking them to resource competition, identity politics, and governance challenges.⁶ In other words these studies argue that xenophobia frequently arises where economic insecurity intersects with weak governance structures. While valuable for contextual analysis, such works often privilege sociological explanation over legal accountability particularly in the Nigerian context.

International scholarship⁷ highlights ICERD⁸ and ICCPR⁹ as foundational instruments against discrimination. Some scholars characterize non-discrimination as a foundational norm underpinning the universality of human rights.¹⁰ Yet treaty monitoring mechanisms are frequently described as “soft enforcement” systems, reliant on periodic reporting, dialogue, and reputational pressure rather than coercive sanction.¹¹ Consequently, while international instruments articulate robust standards against racial and nationality based discrimination, their domestic impact depends largely on national incorporation and judicial willingness to engage international norms. Thus, as dualist states require domestication, the practical enforceability of these instruments in Nigeria depends heavily on judicial engagement and legislative action.¹²

In the African context, extensive literature examines xenophobic violence in South Africa, particularly the 2008 and subsequent outbreaks.¹³ Scholars analyzing the South African experience emphasis the paradox between a progressive constitutional equality framework and recurring anti migrant violence.¹⁴

⁶ T H Marshall, *Citizenship and Social Class* (Cambridge University Press 1950).

⁷ P Alston and R Goodman, *International Human Rights* (OUP 2013)

⁸ International Convention on the Elimination of All Forms of Racial Discrimination (n 4)

⁹ International Covenant on Civil and Political Rights (n 5)

¹⁰ P Alston and R Goodman, *International Human Rights* (n 7)

¹¹ H Keller and G Ulfstein (eds) *UN Human Rights Treaty Bodies: Law and Legitimacy* (CUP 2012).

¹² Constitution of the Federal Republic of Nigeria 1999 (as amended) s 12

¹³ S Hassim, T Kupe and E Worby (eds), *Go Home or Die Here: Violence, Xenophobia and the Reinvention of difference in South Africa* (Wits University Press 2008).

¹⁴ J Klaaren ‘Constitutional Authority to Detain Non-Citizens’ (2010) 26 *SAJHR* 1.

The dominant conclusion is that constitutional guarantees alone cannot prevent xenophobia in the absence of effective policing, judicial responsiveness, and political leadership.¹⁵ Although this body of literature provides instructive comparative insights, it tends to focus on episodic violence rather than systemic institutional discrimination within administrative and migration systems.

At the regional level, the African Charter is widely regarded as normatively progressive, providing inclusive protections for non-nationals.¹⁶ Commentators observe that Article 2's inclusive formulation provides normative protection for non-nationals within Member States¹⁷ Nonetheless, literature consistently notes enforcement challenges, including non-binding recommendations from the African Commission and uneven domestic compliance.¹⁸ Similar concerns are raised in the analyses of the African Court on Human and Peoples' Rights, where limited state acceptance of individual access and implementation challenges constrain its transformative potential.¹⁹

The ECOWAS Court of Justice has attracted increasing scholarly attention for its innovative human rights jurisdiction.²⁰ Studies commend the Court's accessibility particularly its relaxation of the exhaustion of domestic remedies requirement.²¹ However, enforcement literature underscores persistent challenges regarding domestic compliance with ECOWAS judgments, often attributing weak implementation to political resistance and institutional inertia within Member States.²² This was observed in the case of *SERAP v Federal Republic of Nigeria* (2010) ECW/CCJ/JUD/18/12.²³, where domestic implementation of the ECOWAS Court of Justice judgments remained inconsistent despite its expanded access to justice.

Nigerian legal literature has predominantly focused on migration governance, refugee protection, citizenship regulation, the enforcement of fundamental rights and regional integration under the ECOWAS Protocol on Free Movement.²⁴ Scholars examine constitutional guarantees, the role of Nigerian courts in interpreting international instruments, and the significance of treaty domestication under section 12 of the Constitution.²⁵ Nigerian courts' interpretive engagement with international human rights norms has also attracted scholarly attention, particularly following the Supreme Court's decisions affirming the enforceability of the African Charter in domestic courts as was seen in the cases of *Abacha v Fawehinmi* and *Fawehinmi v Abacha*²⁶

However, despite the growing literature on human rights enforcement in Nigeria, there remains limited doctrinal analysis specifically addressing xenophobia as a distinct legal and institutional problem. Existing writings typically subsume nationality-based discrimination within broader discussions of minority rights or migration policy without isolating xenophobia as an analytical category requiring targeted institutional evaluation.

¹⁵ L Landau 'Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa' (2011) 49 *African Affairs* ,1

¹⁶ F Viljoen, *International Human Rights Law in Africa* (2nd edn, OUP 2012).

¹⁷ *Ibid*.

¹⁸ R Murray, *The African Commission on Human and Peoples' Rights and International Law* (Hart 2000).

¹⁹ M Killander (ed) *International Law and Domestic Human Rights Litigation in Africa* (PULP 2010)

²⁰ K Alter, J Gathii and L Helfer 'Backlash against International Courts in West, East and Southern Africa' (2016) 27 *EJIL* 293.

²¹ *Ibid*

²² E Achiume 'The African Regional Human Rights System: Structure and Challenges' (2015) 10 *African Human Rights Law Journal* 1.

²³ *SERAP v Federal Republic of Nigeria* (2010) ECW/CCJ/JUD/18/12.

²⁴ A Adepoju, *Migration in Sub-Saharan Africa* (Nordic Africa Institute 2006).

²⁵ BO Nwabueze, *Constitutionalism in the Emergent States* (C Hurst 1973).

²⁶ *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228 (SC); *Fawehinmi v Abacha* (2000) 6 NWLR (Pt 660) 228 (SC).

Summarily, the literature therefore reveals three discernible patterns. Firstly, normative frameworks against discrimination are extensively theorized at both regional and international levels. Secondly, significant scholarly attention has been devoted to institutional weaknesses within African and international human rights systems. And thirdly, there remains a notable gap in scholarship interrogating the interaction between domestic, regional, and international institutions specifically in the context of xenophobia in Nigeria. This article addresses this gap by evaluating domestic and regional institutions' capacity to protect non-nationals, offering a doctrinally grounded Nigerian centered assessment, and advancing practical reform recommendations.

3. Conceptual and Legal Framework: Xenophobia and Protection of Non-Nationals Xenophobia though not always expressly defined in domestic legislation refers to discriminatory practices, exclusion, or hostility directed at individuals based on nationality, ethnicity, or perceived foreign origin. Within Nigeria, xenophobic practices intersect with administrative discretion, immigration enforcement, and societal bias. Legally, the protection of non-nationals derives from multiple normative sources: thus, the Nigerian Constitution, regional human rights instruments, and international treaties. Section 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) prohibits discrimination on specified grounds, while Chapter IV guarantees fundamental rights to "every person," thereby extending core protections such as the right to dignity, personal liberty, and fair hearing to foreigners within Nigerian territory. These rights encompass both citizens and non-citizens.²⁷ Courts have interpreted these provisions purposively; emphasizing that protection of non-nationals is a constitutional obligation.²⁸

The African Charter on Human and Peoples' Rights, domesticated under Nigerian law, extends non-discrimination and equality rights to all persons within the State's jurisdiction.²⁹ Article 2³⁰ prohibits distinctions based on national origin, while the African Commission has affirmed the applicability of these rights to non-nationals.³¹ The International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination broadly to include distinctions based on race, colour, descent, or national or ethnic origin.³² Although nationality is treated distinctly under certain legal regimes, differential treatment must satisfy strict standards of reasonableness and proportionality. However, Nigeria's ratification of ICERD³³ and the ICCPR³⁴ imposes obligations to prevent racial or nationality-based discrimination. While dualist requirements under Section 12 of the Constitution necessitate legislative domestication, Nigerian courts have relied on these instruments to interpret domestic rights expansively.³⁵ Regionally, Article 2 of the African Charter guarantees the enjoyment of rights without distinction of any kind, including national and social origin.³⁶ The African Commission has consistently interpreted this provision broadly, affirming that non-nationals are entitled to Charter protections;³⁷ however, enforcement challenges persist in practice.

In summary, the conceptual and legal framework demonstrates that xenophobia is not merely a social issue but a legal problem, enforceable through constitutional, regional, and international obligations. Therefore, effective protection depends on institutional capacity, judicial enforcement, and administrative compliance.

²⁷ Constitution of the Federal Republic of Nigeria (n 2)

²⁸ *Abacha v Fawehinmi* (N:26)

²⁹ African Charter on Human and Peoples' Rights (n 3)

³⁰ African Charter 1981 art 2

³¹ *Rencontre Africaine pour la Défense des Droits de l'Homme v Zambia* (2000) AHRLR 321 (ACHPR 1996).

³² International Convention on the Elimination of All Forms of Racial Discrimination 1965 art 1.

³³ ICERD (n 4)

³⁴ ICCPR (n 5)

³⁵ *Fawehinmi v Abacha* (n 26)

³⁶ African Charter on Human and Peoples' Rights 1981 art 2.

³⁷ *Rencontre Africaine pour la Défense des Droits de l'Homme v Zambia* (n 31)

4. Domestic Legal and Institutional Mechanisms

Constitutional Guarantees and Judicial Enforcement: The Nigerian Constitution³⁸ provides a robust normative framework against discrimination, particularly through Chapter IV, which guarantees fundamental rights to all persons within Nigerian territory. Section 42 explicitly prohibits discrimination on the basis of ethnicity, place of origin, sex, religion, or political opinion, whereas sections 34–46 protect rights such as dignity, personal liberty, fair hearing, and freedom from inhuman treatment. The Fundamental Rights (Enforcement Procedure) Rules 2009 were enacted to facilitate access to justice and encourage liberal interpretation of rights. Nigerian courts have affirmed the enforceability of constitutional rights and emphasized purposive interpretation. In other words, judicial interpretation has expanded these protections to include non-nationals. In *Fawehinmi v Abacha*,³⁹ the Supreme Court affirmed the relevance of international human rights instruments in interpreting constitutional provisions, underscoring the enforceability of rights for all persons. Again, in *Abacha v Fawehinmi*⁴⁰, it was also confirmed that domesticated regional instruments, such as the African Charter, carry significant weight in domestic adjudication. Therefore, despite this doctrinal strength, access to constitutional remedies remains constrained by procedural complexities, high litigation costs, and limited public awareness, particularly among foreign nationals. In other words, the existence of rights on paper does not guarantee effective protection where enforcement institutions are weak or inaccessible.

National Human Rights Commission: Established under the National Human Rights Commission (NHRC), Act 1995 and strengthened by the 2010 Amendment Act, the Commission is mandated to promote and protect human rights in Nigeria, investigate human rights violations and recommend remedies.⁴¹ Its quasi-judicial powers allow it to award compensation and compel government agencies to act.⁴² However, the Commission faces significant operational challenges. For instance, budgetary constraints, reliance on executive cooperation, and limited enforcement capacity undermine its effectiveness, particularly in cases involving non-nationals who may be unaware of complaint mechanisms.⁴³ There is also a lack of systematic enforcement of Commission recommendations in the courts, thereby reducing its practical impact.

Immigration and Administrative Agencies: The Nigeria Immigration Service regulates the entry, stay, and removal of non-nationals. While such regulatory functions are legitimate state responsibilities, discretionary enforcement practices may create risks of abuse or can exacerbate xenophobic practices. Arbitrary detention, delayed processing of legal status, and opaque administrative procedures create risks of rights violations.⁴⁴ Therefore, effective protection requires transparent procedures, judicial oversight, and alignment with constitutional guarantees, however enforcement often falls short. Conclusively, administrative discretion without accountability remains a key structural weakness in Nigeria's domestic anti-xenophobia framework.

Nigerian Courts and Access to Remedies: The judiciary remains the primary guarantor of fundamental rights. In other words, the judiciary plays a central role in enforcing anti-discrimination norms. In *Abacha v Fawehinmi*, the Supreme Court affirmed the relevance of ratified but undomesticated treaties in interpreting constitutional rights and the special status of the African Charter as domesticated law.⁴⁵ Additionally, the domestication of the African Charter through national legislation renders its provisions directly enforceable before Nigerian courts.⁴⁶ This significantly

³⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 34–46

³⁹ *Fawehinmi v Abacha* (n 26)

⁴⁰ *Abacha v Fawehinmi* (n 26)

⁴¹ National Human Rights Commission Act 1995; National Human Rights Commission (Amendment) Act 2010.

⁴² *Ibid*

⁴³ A Omorogbe, *Human Rights in Nigeria: Theory and Practice* (Malthouse Press 2010) 112

⁴⁴ Constitution 1999 ss 34–36; Nigeria Immigration Service Act Cap N105 LFN 2004.

⁴⁵ *Abacha v Fawehinmi* (n 26)

⁴⁶ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004

strengthens the normative framework against discrimination and xenophobic conduct. Although constitutional provisions and statutory instruments exist, practical access to remedies is uneven. Litigation costs, procedural delays, language barriers, awareness among migrant communities is low, courts are often overburdened and limited legal aid reduce accessibility of judicial remedies for vulnerable foreign non-nationals. Finally, strategic litigation and proactive judicial intervention are therefore essential to translate formal protections into meaningful enforcement.⁴⁷

5. Regional Mechanisms and Nigeria

African Charter on Human and Peoples' Rights: Nigeria is a State Party to the African Charter on Human and Peoples' Rights, domesticated under the African Charter (Ratification and Enforcement) Act 2004.⁴⁸ Article 2 of the Charter guarantees the rights to equality and non-discrimination to all persons within a State's jurisdiction, explicitly including non-nationals.⁴⁹ The African Commission on Human and Peoples' Rights⁵⁰ supervises compliance, receiving communications alleging human rights violations and issuing recommendations to States. Although Nigeria formally recognizes the authority of the Commission, enforcement of its recommendations remains largely persuasive rather than binding.⁵¹ Limited domestic mechanisms for implementing regional decisions reduce the practical impact of the Charter on protecting non-nationals, particularly in cases of xenophobic administrative action or violence.

ECOWAS Court of Justice: The ECOWAS Court of Justice⁵² possesses explicit human rights jurisdiction over Member States, including Nigeria. Notably, in *SERAP v Federal Republic of Nigeria*,⁵³ the Court asserted its competence to adjudicate human rights violations and issue binding judgments, thereby providing a regional enforcement mechanism for violations affecting individuals within Nigeria. While the Court has enhanced access to justice by allowing individuals and NGOs to bring actions without exhausting domestic remedies, domestic implementation of its judgments remains inconsistent.⁵⁴ Political reluctance, institutional inertia, and limited coordination between domestic and regional agencies undermine the Court's effectiveness in preventing or redressing xenophobic practices.⁵⁵ Notwithstanding these advances, enforcement remains problematic. Compliance with ECOWAS Court judgments depends largely on political will. Weak domestic implementation frameworks often delay or frustrate execution of regional decisions.

Critical Assessment of Regional Enforcement in Nigeria: Regional mechanisms provide significant normative support, but their impact is constrained by domestic compliance gaps. Recommendations from the African Commission are often delayed or ignored, and ECOWAS Court judgments require active domestic enforcement, which is not guaranteed.⁵⁶ Consequently, regional instruments enhance Nigeria's legal framework but cannot substitute for effective domestic enforcement.

6. International Mechanisms and Treaty Bodies

At the international level, Nigeria submits reports periodically to treaty monitoring bodies such as the Committee on the Elimination of Racial Discrimination and the Human Rights Committee. These bodies review compliance and issue concluding observations. While treaty body recommendations contribute to normative development, they lack direct enforceability within Nigeria because it's absent domestic incorporation. Nigeria follows a dualist approach under section 12 of the Constitution,

⁴⁷ B Ojukwu, 'Access to Justice for Non-Nationals in Nigeria' (2015) 9 *Nigerian Journal of International Law* 45.

⁴⁸ African Charter on Human and Peoples' Rights (n 3)

⁴⁹ African Charter on Human and Peoples' Rights 1981 art 2.

⁵⁰ *Ibid* art 55.

⁵¹ R Murray, *The African Commission on Human and Peoples' Rights and International Law* (Hart 2000) 112.

⁵² ECOWAS Revised Treaty 1993 art 9; ECOWAS Court of Justice Protocol 1991.

⁵³ *SERAP v Federal Republic of Nigeria* (n 23)

⁵⁴ K Alter, J Gathii and L Helfer, (n 20)

⁵⁵ E Achiume, 'The African Regional Human Rights System: Structure and Challenges' (n 22)

⁵⁶ *Ibid*

requiring legislative domestication before treaties acquire binding force internally.⁵⁷ Consequently, several international anti-discrimination commitments remain indirectly enforceable. The Universal Periodic Review (UPR) mechanism further subjects Nigeria to peer review at the global level. However, implementation of recommendations depends on domestic political commitment.

7. Institutional Shortcomings

A critical evaluation reveals several recurring shortcomings such as weak enforcement culture, limited institutional coordination, insufficient awareness among affected populations, and political reluctance to address sensitive migration-related issues. Despite the existence of constitutional provisions, statutory, and regional mechanisms, the protection of non-nationals against xenophobia in Nigeria is hampered by these multiple institutional weaknesses. Therefore, strengthening domestic incorporation of anti-discrimination standards, enhancing NHRC enforcement authority, and improving compliance with regional judgments are necessary reforms.

Enforcement Deficits: Courts and administrative agencies often face structural limitations that impede effective enforcement. Judicial delays, high litigation costs, and procedural complexity reduce the practical accessibility of remedies for non-nationals.⁵⁸ While the NHRC possesses investigative and quasi-judicial powers, its recommendations are not automatically enforceable, thereby limiting its effectiveness.⁵⁹ In other words Legal norms exist, but institutional follow through is inconsistent.

Weak Domestic Compliance with Regional Judgments: Implementation of regional judgments remains uneven. Nigeria's adherence to African Commission recommendations and ECOWAS Court judgments is inconsistent.⁶⁰ Political resistance, bureaucratic inertia, and inadequate coordination between domestic and regional institutions hinder full implementation, leaving vulnerable non-nationals to repeated violations.

Administrative and Policy Gaps: Immigration and other administrative agencies exercise considerable discretion, often without transparent procedures or accountability mechanisms.⁶¹ Arbitrary detention, delays in documentation, and selective enforcement exacerbate the risk of xenophobic treatment. The lack of clear guidelines for officials and insufficient training further undermine legal protections.

Limited Public Awareness among migrants and Access to Justice: Many non-nationals are unaware of their rights or the mechanisms available to assert them.⁶² Limited outreach by the NHRC and legal aid providers constrains the ability of vulnerable populations to seek redress, effectively reducing constitutional and statutory guarantees to inspirational norms rather than enforceable rights.

Political Sensitivity of Migration Issues: Governments may prioritize sovereignty and security concerns over rights protection.

Weak Coordination: Domestic agencies, regional bodies, and international mechanisms operate with limited integration. Note collectively, these shortcomings illustrate that Nigeria's legal and institutional framework, while formally comprehensive, is undermined by weak enforcement, inconsistent compliance, administrative discretion, and limited awareness. Addressing these gaps is essential to translating formal protections into effective safeguards for non-nationals. These shortcomings reveal a structural disconnect between normative commitment and practical protection.

⁵⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 12

⁵⁸ B Ojukwu, 'Access to Justice for Non-Nationals in Nigeria' (n 47)

⁵⁹ National Human Rights Commission Act 1995; (N: 41)

⁶⁰ E Achiume, 'The African Regional Human Rights System: Structure and Challenges' (n 22)

⁶¹ Nigeria Immigration Service Act Cap N105 LFN 2004.

⁶² A Omorogbe, *Human Rights in Nigeria: Theory and Practice* (Malthouse Press 2010) 112

8. Reform Proposals

Strengthening Domestic Institutions: Bridging the enforcement gap requires deliberate institutional strengthening, improved implementation of regional judgments, and enhanced judicial vigilance to ensure meaningful protection for all persons within Nigeria’s jurisdiction. Nigeria should consider legislative reforms expanding explicit anti-discrimination protections to cover nationality-based discrimination comprehensively. To enhance protection for non-nationals, the National Human Rights Commission⁶³ should be empowered with binding enforcement authority. Budgetary allocation must be adequate to ensure investigative capacity, and systematic outreach programs should raise awareness among migrant communities about their rights and available remedies.⁶⁴ Judicial capacity should be strengthened through training on international human rights norms, ensuring consistent incorporation of the African Charter and other relevant instruments in constitutional interpretation.⁶⁵ Simplifying procedural requirements for fundamental rights actions can improve access to justice for vulnerable populations. And lastly, structured mechanisms for implementing ECOWAS Court judgments should be institutionalized domestically.

Improving Compliance with Regional Judgments: Structured mechanisms for implementing ECOWAS Court judgments should be institutionalized domestically. Nigeria should adopt mandatory domestic implementation procedures for ECOWAS Court judgments and African Commission recommendations.⁶⁶ Inter-agency coordination between ministries, courts, and enforcement agencies is essential to translate regional decisions into practical protection. Creating an oversight mechanism to track and enforce compliance would address systemic gaps.

Administrative and Policy Reforms: Immigration and other administrative agencies should adopt clear, transparent, and accountable procedures.⁶⁷ Officials must receive training on non-discrimination obligations, and oversight mechanisms should monitor compliance with constitutional and statutory standards. The development of standard operating procedures for handling complaints can mitigate arbitrary treatment

9. Conclusion

Nigeria’s formal commitment to anti-discrimination norms across domestic, regional, and international levels reflects a robust legal architecture. However, the persistence of institutional gaps reveals a disconnect between normative alignment and practical enforcement. Bridging this gap requires deliberate institutional strengthening, judicial responsiveness, and sustained political will to ensure that non-nationals within Nigeria’s jurisdiction enjoy effective protection against xenophobia. Therefore, Xenophobia in Nigeria is not merely a societal problem but a legal and institutional challenge. While the country possesses a formally comprehensive anti-discrimination framework at domestic, regional, and international levels, enforcement deficiencies, weak compliance with regional judgments, administrative discretion, and limited public awareness undermine protection for non-nationals. Strengthening institutional capacity, enhancing judicial engagement, improving compliance mechanisms, and raising awareness are essential reforms. These measures can transform formal legal guarantees into meaningful protection, ensuring that Nigeria fulfills its constitutional, regional, and international obligations to safeguard all persons within its jurisdiction. Therefore, effective protection requires institutional accountability, judicial vigilance, and sustained political will to ensure that all persons within Nigeria’s jurisdiction, irrespective of nationality, enjoy meaningful protection against xenophobia.

⁶³ National Human Rights Commission (n 41)

⁶⁴ A Omorogbe, *Human Rights in Nigeria: Theory and Practice* (n 62)

⁶⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 42; *Fawehinmi v Abacha* (N:26)

⁶⁶ *SERAP v Federal Republic of Nigeria* (N:23); E Achiume, ‘The African Regional Human Rights System: Structure and Challenges’ (n 22)

⁶⁷ Nigeria Immigration Service Act (n 61)