KJMS 2025 Vol.7 (1): 27-41

KDU Journal of Multidisciplinary Studies

(KJMS) Volume 7. Issue 1 July 2025

DOI: https://doi.org/10.4038/kjms.v7i1.160

AN OVERVIEW OF LEGAL INSTRUMENTS ON HEALTH GOVERNANCE MECHANISMS ON INFECTIOUS DISEASES IN NIGERIA IN THE LIGHT OF THE COVID-19 PANDEMIC

E.G. Orie,[1] J. Sokefun[2], and K.J. Nkum [3]

Department of Private & Property Law, Faculty of Law, National Open University of Nigeria, Nigeria[1]
Department of Public Law, Faculty of Law, National Open University of Nigeria, Nigeria[2]
Department of Public Law, Faculty of Law, Taraba State University, Jalingo–Nigeria[3]

ABSTRACT

Nothing has killed more people throughout history than infectious diseases. COVID-19 demonstrated how vulnerable the world remains, and how similar pandemics can be better prevented and managed in the future. The world recorded one million COVID-19 deaths in September 2020, while Africa recorded about 35,954 deaths. The situation is not different in Nigeria, with the avoidable loss of many lives. Nigeria is the most populous country in Africa and despite the marginal improvements in public health responses to infectious disease from 39% in 2017 to 54% in 2023, the Quarantine Act (QA) of 1926 which is the active national law on disease surveillance in Nigeria is archaic and not robust or comprehensive enough resulting in poor quality health governance, implementation and management of infectious diseases emergencies and responses. There is a need to reverse the trend and for the Nigerian government to improve its health outcomes by strengthening the healthcare systems to achieve quality health governance of infectious diseases. Therefore, in the light of the COVID-19 Pandemic and using the doctrinal research methodology whereby primary and secondary sources of data are analysed, this study sought to review and interrogate the status and adequacy of the legal instruments and other regulatory measures for infectious disease in Nigeria. The primary sources consist of information from municipal statutes and government policies/regulations while textbooks, case laws, conference proceedings, journals, periodicals, internet resources, and the media constitute the secondary sources accessed for the study. It was found that the QA, apart from being outdated, is plagued by several shortcomings such as negative impact on fundamental rights, weak institutional framework and infrastructure, lack of transparency in its implementation, and poor stakeholder engagement, resulting in the citizens working at cross purposes with the government and various health institutions. Other challenges include specific concerns about the powers granted to the President during pandemic outbreaks, the potential for arbitrary restrictions of the populace and the lack of clear guidelines for reporting and enforcement. These challenges can be remedied by amendment of the extant laws like the QA and other regulations, providing more robust and decentralised response mechanism and enabling prompt actions in remote areas. The paper, therefore, recommends the review and updating of the QA in Nigeria in line with global best practices to facilitate efficient and effective management of responses to public health emergencies and coordination and collaboration at all levels.

KEYWORDS: *Covid -19 Pandemic, Health Governance, Infectious Diseases, Legal Instruments, Quarantine*

Corresponding author: E.G. Orie, Email: eorie@noun.edu.ng

https://orcid.org/0000-0002-9577-2083

1. INTRODUCTION

Over the past half century, international reports have shown that the burden of infectious diseases in the industrialised world has increased steadily. Throughout history, nothing has killed more human beings than infectious disease. Covid-19 highlights how vulnerable we are to future pandemics, and the ways in which we can avoid them. In some quarters it has been argued that the availability and implementation of adequate laws, policies, procedures and systems to help prevent outbreaks before they occur and take measures aimed at reducing their spread are essential for the ability to spot and react swiftly to outbreaks in order to limit their effects.

The International Health Regulations (IHR) was established by the World Health Assembly in 1969 and later reviewed in 2005 to respond to the short-comings of the international sanitary regulations in relation to the constricted confines of the notifiable disease (cholera, plague and yellow fever) in view of the emergence of the new disease threats (Anaemene, 2016). Its scope and purpose is "to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade" (WHO, 2005). The IHR reaffirms the State Parties' responsibility for protecting human rights to health and failure to fulfil these obligations could be regarded as a breach of their responsibilities in respect of protection of human rights to health. Nigeria is a signatory to the World Health Organisation and has over the years established several laws, policies and institutional arrangements for the implementation of the IHR.

In Nigeria, the Quarantine Act of 1926 remains in force as the primary legislation governing disease surveillance. In addition, some additional measures designed to limit the spread of the virus and reduce its overall impact on vulnerable populations like the enactment of COVID 19 Regulation 2020 were taken by the Federal Government of Nigeria. The government created the Nigeria Centre for Diseases Control (NCDC) to lead the preparedness, detection and response to infectious disease outbreaks and public health emergencies.

The status and suitability of national legal instruments to manage disease surveillance in Nigeria is therefore examined in the present paper. It considers that it is not sufficient to provide for effective regulation of these infectious diseases by means of legislation. The paper also noted that an effective system of surveillance for the detection and response to outbreaks of infectious diseases is essential, both in terms of their proper management and with a view to mitigating its effects.

However, the article finds that Nigeria lacks the necessary and adequate legal frameworks and political will required to achieve effective solutions to the management of infectious diseases in Nigeria. Accordingly, this paper makes a number of important recommendations for an effective legal framework for the management of infectious diseases. This paper is divided into six sections. The paper engages with the discussion by conceptualizing some key terms and thereafter examines the implications of infectious diseases. It also appraises the policy, legal and institutional framework for infectious disease management in Nigeria. Thereafter, the paper examines legal issues and challenges which hinder effective management of infectious diseases in Nigeria with a view to making recommendations based on global best practices and local considerations.

2. CONCEPTUAL CLARIFICATION

2.1. Infectious Diseases:

The World Bank (WHO,2012) and the Health Promotion and Disease Prevention Directorate (HPDP, 2025) view infectious diseases as illnesses caused by pathogens like bacteria, viruses, fungi, or parasites, which can spread directly or indirectly from one person to another. This view was re-echoed by researchers like Shoba Ranganathan, 2019; Barreto, Teixeira, and Carmo, 2006). "Infectious disease" according to the Quarantine (Ships) Regulations 1968 also means a quarantine-able disease or any other

infectious or contagious disease other than venereal disease or tuberculosis. Thus, the law on control of infectious diseases is composed of legislation aimed at prevention, detection and elimination of infections as well as health risks associated with them in connection with this monograph. The Quarantine Act does not provide for the definition of an infectious disease, but refers to a category of infected or contagious diseases such as cholera, plague, yellow fever, smallpox and typhoid which may be declared by the President in accordance with that law.

2.2. Health Governance: The system of management and control of entities may be defined as governance. It is concerned with the structure and processes of decision making, accountability, control and behaviour at the head of an entity. Governance is the system by which an organisation is managed and operated, and the mechanisms by which it and its staff are taken into account (Governance Institute of Australia, 2025). It is, in other words, the management of health systems and strengthening healthcare systems that are referred to as Health Management. The main objectives of a health system and the way in which policy and legislation are required to achieve them shall therefore be determined by its governance (Transparency International). In order to ensure the needs and objectives of Public Health are met, political institutions shall be in a position to seek compromise among various stakeholder groups within the healthcare sector. At all levels of the health system, from international to local level, this management process for policy and legislation needs to be implemented (Transparency International).

2.3. Quarantine: In 1377, a quarantine was introduced in Dubrovnik on Croatia's Dalmatian coast, and in 1423, the Republic of Venice opened the first lasting epidemic hospital, Nazarethlaza, on the small island of Santa Maria di Siena (Grmek and Buchet,1997). Quarantine and other public health practices are effective and valuable ways to control communicable disease outbreaks and public anxiety. Therefore, quarantine is a strategy to limit the spread of communicable diseases (Rotz, Khan, Lillibridge, Ostroff and Hughes, 2002). Such strategies have always been widely debated, perceived as intrusive and accompanied by an undercurrent of suspicion, mistrust or riots in all age groups and political systems.

2.4. Coronavirus Disease (COVID-19) Pandemic: The coronavirus disease 2019 (COVID-19) is a communicable respiratory disease caused by a new strain of coronavirus, called severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2 that causes illness in humans (Africa Centre for Disease Control, 2019)**.** It was first reported in Wuhan China, but it has now spread throughout the world from animals to humans. The disease spreads from person to person through infected air droplets that are projected during sneezing or coughing. It can also be transmitted when humans have contact with hands or surfaces that contain the virus and touch their eyes, nose, or mouth with the contaminated hands. Meanwhile, the World Health Organisation (WHO) has declared the COVID-19 a pandemic (WHO Director-General, 2020) defined as occurring over a wide geographical area and affecting an exceptionally high proportion of the population (Merriam Webster Word of the Year, 2020'). A globally coordinated effort is needed to stop the further spread of the virus which so far has no cure. The pandemic is real and also affects the Nigerian international and internal migrants.

From the above discussions, one can derive the fact that there is a strong nexus between legal instruments and infectious disease like COVID -19. In the context of this paper, infectious disease control law comprises the legislation that are aimed at the prevention, detection and abatement of infectious diseases and the health risks resulting from such diseases. These legislations regulate the central field of public health law (Koyuncu, 2008). Historically, many public health accomplishments were achieved by using laws and regulations to help shape the physical and social environments. Thus, law affects public health in ways that prevent millions of deaths and untold human suffering.

The purpose for putting policies and procedures in place for infection control therefore is to ensure employees, clients and families are protected against infectious diseases and infections by providing

guidelines for their investigation, control and prevention. In other words, a good legal instrument is a sine qua non to attaining an improved infectious disease control status. It has therefore been submitted in some quarters that with the recent outbreaks of emerging and re-emerging infectious diseases such as Ebola virus disease and other epidemic prone diseases in Nigeria demanding immediate public health action, there is a need to strengthen the existing notifiable disease surveillance and notification system with increased clinicians' participation in the timely reporting of notifiable diseases to designated public health authorities for prompt action in the field of public health (Isere, Fatiregun and Ajayi, 2015).

3. IMPACT OF INFECTIOUS DISEASE

Over the years, infectious disease outbreaks occur with devastating impact on society. As far back as 541 AD, Egypt's grain merchants brought rats to the Eastern Roman Empire infected with an unfamiliar organism that caused the plague of the Justinian period (Makinde and Odimegwu, 2018). This outbreak killed over 30 million people, aside the accompanying significant economic impact (Makinde and Odimegwu, 2018). This impact has not diminished in the years since. Outbreaks of Severe Acute Respiratory Syndrome coronavirus in 2003, 2009 swine flu pandemic, 2012 Middle East respiratory syndrome coronavirus outbreaks, 2013–16 West African Ebola virus epidemic and the 2015 Zika Virus disease epidemic have all led to significant morbidity and mortality while infecting people across borders (Baker, et al, 2022).

In the world at large, this pandemic has led to dramatic loss of lives and an unprecedented challenge for public health, food systems and employment. It destroyed jobs and put millions of livelihoods at risk. The victims are a part of the most marginalized populations, which include small-scale farmers and indigenous peoples, being hardest hit (WHO, Impact of COVID-19, 2020). About half of the world's workforce have lost their jobs and in countries like Nigeria where the majority lack social protection, access to quality healthcare and bereft of the means to earn an income during lockdowns, many were unable to feed themselves and their families with attendant increased vulnerability to other diseases due to unsafe working and living conditions. The pandemic also affected the food system, exposing its fragility, apart from the loss of jobs.

Border closures, trade restrictions and quarantine measures prevent farmers from accessing markets, including for buying inputs and selling their products or agricultural workers from harvesting crops thereby disrupting domestic and international food supply chains and limiting access to healthy, safe and diverse diets (WHO, Impact of COVID-19, 2020; Andam, Edeh, Oboh, Pauw, and Thurlow, 2020). The sharp fall in oil prices which threatened years of moderate economic growth in Nigeria and many other oil dependent African countries have an additional impact on the economy (IMF, 2020).

In particular, as a result of the COVID 19 crisis, Nigeria has awakened to a new economic and social reality. Shortages of essential supplies such as pharmaceutical products, parts and finished goods from China and some others have been particularly severe in Nigeria during the pandemic. Against this background, Nigeria surpassed India in terms of the number of people living in absolute poverty in 2019 (Orie, 2021). For example, when the Lagos State government banned the use of tricycles and bicycles, about 14,000 bikehailing workers and about 50,000 tricycles and informal motorcycle riders were unemployed, unemployment increased exponentially during the lockdown (Orie, 2021). In addition, nearly 42% of workers lost their jobs during the COVID-19 pandemic (Orie, 2021). As far as education is concerned, the majority of universities and schools were not able to offer a full educational curriculum online or use virtual videoconferencing applications which meant that students quarantined at home could not access their course content (Orie, 2021). With over 45,000 recorded cases and over 900 COVID-19 related deaths, Nigeria was adversely affected by COVID-19 pandemic and the poor and vulnerable were hardest hit due to the reduced access to sanitation (Orie, 2021). In essence, the main area of Public Health Law focuses on preventing, detecting and reducing diseases and their health risks with

regard to Infectious Diseases Control. It is considered to be the oldest branch of public health law.

4. LEGAL FRAMEWORK FOR ADDRESSING COVID-19 IN NIGERIA

The relevant legal regime regulating COVID-19 in the **c**ountry includes the following:

4.1. *The Constitution (CFRN)1999*

The three organs of government in Nigeria share the Constitutional duties on health (CFRN 1999; Onyemelukwe, 2016). Usually, the state legislators may choose to adopt the laws passed at the federal level with some modifications. In principle the Nigerian Constitution guarantees the protection of the basic human rights (Chapter iv CFRN) like right to life and dignity of human person, the right to privacy, freedom of movement, peaceful assembly and association, such limitations on the enjoyment of those rights may be imposed, if they are deemed to be reasonable and to protect public health, as regards the right to life and dignity of human beings, the right to privacy, freedom of movement, peace assembly and association (section 45(1)(a) of the Constitution).

Section 305(1) of the 1999 Constitution allows the President to declare a state of emergency in the federation or part thereof, which can be exercised when Nigeria is at war, facing imminent danger of invasion, breaking down public order and safety, or facing a disaster or natural calamity affecting the community. The declaration of COVID-19 as a pandemic constitutes an imminent threat to public order, health and safety, thus giving the President the power to declare a state of emergency. Nevertheless, the proclamation shall be approved by the National Assembly within 2 days of its session or 10 days if it is not in session. This is an issue because the members of the National Assembly are not physically in a position to consider proclamations and must perform social distancing, self-isolation, quarantine, or peace keeping measures while teleconferencing has yet to be established. The Galaxy Backbone, designed by the Nigerian Communications Commission (NCC), is yet to be automated with the National Assembly (Oyinwola, 2020).

4.2. Covid-19 Regulations

Following the Quarantine Act of 1926, Nigeria's President issued COVID-19 Regulations 2020 and COVID-19 Regulations No. 2 2020. These regulations provided restrictions on movement in and out of Lagos and Ogun State as well as the Federal Capital Territory, Abuja. They also extended the lockdown and empowered the Chief Justice of Nigeria to approve the circulars sent to all the heads of the courts in Nigeria to suspend the sittings of the courts in Nigeria. The critics argue that by declaring a state of emergency, the President can only restrict movement or take over government functions. However, QA (discussed below), sections 315 and 318 of the CFRN, which **give** the President and the Governor the power to amend or add to it under the Constitution, remain in force as existing laws.

Furthermore, to make COVID-19 Regulations 2020 and COVID-19 Regulations No.2 2020 valid and constitutional, the President may rely on those provisions. The Chief Justice of Nigeria (CJN) has the power to direct the suspension of court sittings under the National Judicial Council (NJC), which is the regulatory body for the Nigerian judiciary and has powers related to appointment, discipline of judicial officers, budgetary allocations, and policy and administration matters. This broad power confers on the CJN the power to suspend court proceedings using two separate circulars issued by the CJN, both of which are legal and constitutional (Oyinwola, 2020).

4.3. The Integrated Disease Surveillance and Response Policy (IDSR)

In Nigeria, along with the Constitution, a system of IDSR has been approved, which replaces disease surveillance and notification. The adoption of the IDSR as a policy has been designed to improve its ability to anticipate and detect disease outbreaks across the country. All tiers of government, including parastatals, the Private Health Sector, NGOs and partners have created an IDSR Policy to guide and ensure a necessary environment for planning,

implementing, monitoring and evaluation of this initiative. The policy noted that, in consultation with the National Health Council, it would be reviewed every five years or so, if deemed appropriate by the Minister of Health. In order to prevent duplication, it identified that coordination with the National Health Information System (NHMIS) in 2014 is needed. A list of 40 diseases and conditions of importance to be monitored in Nigeria is included in the Technical Guidelines (Makinde and Odimegwu, 2018).

4.4. National Health Management Information System Policy (NHMIS)

The National Health Data Governance Committee (NHDGC) recommends the establishment of a health data governance structure for Nigeria, chaired by the Minister of Health as chairman of NHDGC. The National Population Commission, the National Bureau of Statistics, the Heads of All Health Data Gathering Institutions in the country, and various departments within the Ministry shall be part of the NHDGC. It also proposes to set up Health Data Governance Councils at the national level, with similar representation of members within the data-generating units in each Member State, chaired by a competent health authority. The objective of the policy is to promote good coordination and governance of the health information system.

4.5. The National Health Act 2014

It provides some support for the implementation of the NHMIS, although it does not focus on disease surveillance. Part IV section 35 subsection (1) states that "the Federal Ministry of Health shall facilitate and coordinate the establishment, implementation and maintenance by State ministries, local government health authorities and the private health sector of the health information system at the national, State and local government levels in order to create a comprehensive NHMIS. It provides a framework for the regulation, development and management of a national health system and sets standards for rendering health services in the federation, and other matters, bears enabling provisions that could address some of the challenges pertaining to the issues of public health emergency if given a broad focus and allowed to operate at that level. In order to ensure that all persons living in Nigeria have access to the best possible healthcare within the limits of available resources, Section 1 of the Act encourages cooperation and synergy between those operating within the national health system. However, the National Health Act is not detailed for infectious disease control.

4.6. Quarantine Act (QA)

The substantive law that governs infectious diseases in Nigeria, **the Quarantine Act,** was enacted almost a century ago during the colonial era in 1926. The Act remains the active **n**ational **l**aw on disease surveillance in Nigeria. Its purpose, as stated in its preamble, is to "provide for and regulate the imposition of quarantine and to make other provisions for preventing the introduction into and spread in Nigeria, and the transmission from Nigeria, of dangerous infectious diseases. Section 2 of the Act defines dangerous infectious disease to mean cholera, plague, yellow fever, smallpox, and typhus, and includes any disease of an infectious or contagious nature which the President may, by notice, declare to be a dangerous infectious disease within the meaning of this Act. Furthermore, Section 4 empowers the President to make regulations for several purposes. It outlines the measures to be taken in Nigeria to declare any place as an infected local area, the introduction of dangerous infectious diseases, and the spread of these diseases. It also outlines the powers and duties of officers responsible for these regulations, the fees to be paid, and the persons to bear the expenses and recover them from the government.

The Act in its section 7 gives original Jurisdiction to the magistrate court for matters relating to infectious diseases while also recognising the powers of state governors to establish similar regulations on infectious diseases in their states. Section 7 is to the effect that the penalty for contravening the regulation is a fine of N200 or to imprisonment for a term of six months or to both. By the provisions of section 8, the governor of a state has residual powers to make declarations under sections 2 and 3, provided that the President has not made a contrary declaration. The

Act authorizes restrictions on the enjoyment of the constitutionally guaranteed freedom of movement in Nigeria.

However, it is archaic having been established as a Law in 1926, several decades before the IHR came into effect. One of the diseases, the small pox, identified in the Act was decimated over 35 years ago; the penalty allotted to defaulters of the Act according to its section 5 is a meagre N200 (0.7 US Dollars) fine or six months' jail term or both (even when Magistrate courts now have jurisdiction to impose much higher sanction), and not relevant to deter offenders, thus highlighting the need for a revision to address emerging issues. The Act did not cover all states and local governments of the federation. There is also no provision for compulsory vaccination.

In summary, the QA of 1926 grants the President the power to make regulations, declare infected areas, prescribe measures to prevent disease transmission, and designate sanitary stations, equipment, and buildings to curb the disease. Sections 3, 4, 5, and 6 empower the President to make these regulations. Section 8 grants Governors the same power to make declarations and regulations if the President has not made them for their states. The Act provides a reasonable degree of power for the President to handle a pandemic, but its provisions need modifications to align with reality. As a result, the COVID-19 regulations were made under the Act.

4.7. Control of Infectious Diseases Bill 2020

This Bill, which has passed its first and ssecond reading before the House of Representatives, was introduced on the 28th day of April 2020. Similarly, the Quarantine Act 2004 (Repeal and Enactment) Bill, 2021 (SB. 413) passed its second reading at the Senate in 2021. The Control of Infectious Diseases Bill (CIDB) makes provision for repealing the Quarantine Act, 1926 (QA and establishing a control of Infectious diseases, making provisions on quarantine and laying down rules to prevent the spread of dangerous invasive diseases in Nigeria, as well as other matters.

In particular, the Bill provides for notification of prescribed infectious diseases and declaration of outbreak as a public health emergency to prevent dangerous infectious diseases and their spread across Nigeria. The Bill is intended to strengthen the legal framework for infectious disease control in Nigeria, particularly in light of events like the COVID-19 pandemic. It equally represents an attempt to be up to date with modern realities regarding diseases, epidemics or pandemics by expanding the scope and interpretation of dangerous infectious diseases beyond what is contained in the QA. It thus provides organizational structure for the fight against COVID-19 and government's anti-pandemic efforts.

In some quarters, the Bill has been described as a legalisation of human rights abuses and the ownership of immovable property by Nigerians. Its striking similarity with the Singapore's Infectious Disease Act of 1977 exposes it to further criticism as one that is dictatorial in nature (sections 15, 16, 24, 47, 75). The Bill sought to suspend medical ethics and give the Nigeria Centre for Disease Control a great deal of power in dealing with infectious diseases. Unfortunately, it does not provide for any procedural safeguards to ensure that persons subject to quarantine or isolation have the right to seek redress or review by a court of law within a reasonable period of time (sections 6 and 10). In deed it would appear that the fundamental rights of any suspected infected persons are suspended.

However, there is the criticism that the discretionary powers of the President and the Director-General of the NCDC should be reviewed with the aim of spreading the same among the authorities of the three tiers of Government. This would ensure that everyone is adequately involved in the efforts to confront the outbreak of an infectious disease. In addition, it is also submitted that the provisions are so pervasive as to touch on every aspect of the life of a citizen and that no objective standards have been created for preventing arbitrariness in the claimed exercise of these powers; further that there is generally no room allowed for judicial scrutiny which makes the Bill a recipe for tyranny. It has also been argued that the law is superfluous, unconstitutional and a potentially dangerous piece of legislation and that provisions like

section 21 (5) that are inconsistent with the Constitution should be expunged as they are unlawful and cannot stand scrutiny**.**

4.8. The Nigeria Centre for Disease Control and Prevention (Establishment) Act 2018 (the NCDC)

The Act established the Nigeria Centre for Disease Control and Prevention for the prevention, detection, investigation, monitoring and control of communicable diseases in Nigeria, and other related matters.

It has been argued in some quarters that this Act repealed the QA. If this argument succeeds it would mean that the FG Regulations and other regulations made by the State Governments will be void and the lockdown enforced in pursuance of same would have been unlawful. The NCDC Act has no provision suggestive of a repeal of the QA either in whole or in part. Generally, the Nigerian courts are only able to invoke the doctrine of implied repeal, where the inconsistencies or contrarieties in both statutes is such that both statutes cannot stand together or substantially cover the same subject matter **(**Om Prakash vs Akhilesh, 1986; Leadway Assurance. Co. Ltd. v. J.U.C. Ltd.)**.** In Leadway Assurance. Co. Ltd. v. J.U.C. Ltd.**,** the court held that section 23 of the Marine Insurance Act, 1962 is inconsistent with section 50 of the Insurance Act, 1997 and that the later law repeals the former law to the extent that it makes payment of insurance premium a condition precedent to a valid contract of insurance. It is apparent that both laws materially differ in scope and there is no inconsistency or contrariety between the two laws to justify the conclusion that both statutes cannot stand together.

4.9. Other Laws

This includes the Child Rights Act 2003, which has been ratified in several Member States with amendments to its original law adopted at the national level (Onyemelukwe, 2016). The African Charter on Human and Peoples Rights of 1981 for instance, sets out in article 16, the right of every individual to enjoy the "best attainable state of physical and mental health and declares that states parties shall take "the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick." Other regulations also include the National Emergency Management Agency (Establishment, Etc.) Act 1991 and the Environmental Health Officers (Registration, Etc.) Act, 2002. Some states like Lagos state also have regulation on infectious disease**,** (The Lagos State Infectious Diseases, 2020).

5. INSTITUTIONAL FRAMEWORK FOR ADDRESSING COVID-19 IN NIGERIA

The national health information system is also managed by the Federal Ministry of Health (FMOH) in Nigeria, which has responsibility for managing the country's healthcare systems. The FMOH uses the Integrated Disease Surveillance and Response Strategy, developed in 1998 by the World Health Organization Regional Office for Africa, to implement the IHR; a framework for coordinated and integrated surveillance and response. Nevertheless, the IDSR strategy calls for health care institutions to participate in a surveillance system requiring regular reporting of 41 priority diseases and conditions as required under an established schedule but this is not easy. On the other hand, both the Quarantine Act and the IDSR Policy are not necessarily in line with the diseases to be monitored (Makinde and Odimegwu, 2018). Moreover, neither the IDSR nor any other policy has provided guidance for the implementation of the IDSR in the various States of Nigeria by their respective ministries of health. As it has been established that national legislation and health policies do not necessarily bind States, this is a major shortcoming.

The NCDC established the Nigeria Centre for Disease Control and Prevention for the prevention, detection, investigation, monitoring and control of communicable diseases in Nigeria, and other related matters. The NCDC is Nigeria´s national public health institute responsible for coordinating response to disease outbreaks. The NCDC has as a guide document the National Strategic Plan 2017 to 2021

for implementing and delivering its programmes. The current NCDC organogram does not indicate a link to other units at the national and local government level, although it has good cooperation with major state bodies such as the Ministry of Health, National Primary Health Care Development Agency (NAPHDC) or State Primary Health Care Development Agency PSPDC.

From these discussions, it is clear that Nigeria has a good number of policies, guidelines and contingency plans, in particular the National Strategic Plan 2017 to 2021. It is important because they play a key role in evidence based practice when providing direction for public health emergencies and preparedness responses (Eteng et al, 2022). However, the legal framework on infectious diseases is not up to date. Furthermore, in the field of emergency preparedness and response there is a lack of coordination or network guidance at National, State and Local Governments level among NCDC, FMOH, parastatal agencies and partners. This poses a danger to public health emergency response, as there will be confusion about who is responsible for the Public Health Emergency and how it should be addressed in case of emergencies. This will lead to an ineffective, fragmented and inadequate public health response in case of emergency or disaster. To this end, it is necessary to draw up a guidance document improving coordination and response to epidemics (Eteng et al , 2022).

6. ISSUES AND CHALLENGES AFFECTING THE CONTROL OF INFECTIOUS DISEASES IN NIGERIA

The following are some of the salient issues and challenges affecting the control of infectious diseases in the Country:

.

6.1. Inconsistency with the Nigerian Constitution

The Constitution is the ground norm and the supreme law of Nigeria, and any other law that is contrary to it will be declared void to the extent of that inconsistency. Under section 36(5) of the Nigerian Constitution, an accused person is explicitly presumed innocent until proved guilty, which by implication places the onus of proving the blameworthiness of the accused (beyond a reasonable doubt) on the prosecution. On the other hand, section 4(6) of CIDB provides that when any person is charged with failing to comply with the requirements of subsection (1), (2) or (3) about the notification of a prescribed infectious disease, he shall be presumed to have known of the existence of the disease unless he proves to the satisfaction of the court that he had no such knowledge and could not with reasonable diligence have obtained such knowledge. This is contrary to the constitutionally guaranteed principle of presumption of innocence. There is need for the Act to protect the rights of the citizens by striking a balance between necessary emergency measures and the constitutionally guaranteed rights of citizens.

6.2. Absence of an 'acceptable' Legal Framework

The International Health Regulations (IHR) 2005 have provided guidelines for addressing issues of public health emergencies, but there is a need to incorporate this into the national statutory instruments to mandate compliance by all those involved in the healthcare services. The QA and the National Health Act currently govern Nigeria's disease surveillance, but the QA is in dire need of an amendment. The IHR provides guidelines for public health emergencies, but it needs to be incorporated into national statuary instruments to mandate compliance. The QA, established in 1926 is now obsolete, and needs a review. For example, by section 3 of the Act only the President can declare a 'local area' in Nigeria as an infected area. The implication is that a state governor and the local government chairperson will have to wait for the President's decision on the impact of the spread of infectious disease in the state which could be catastrophic. This position of the law appears very unrealistic. During the Ebola outbreak in Nigeria there was no real time concern of this disease that is known to spread sporadically even among rural dwellers. Such noticeable governmental lapses in addressing the needs of such persons ought to be quickly addressed in the law.

Other laws like the National Health Act and the Child Rights Act 2003 do not provide for infectious disease

management. The IDSR strategy, developed to implement the IHR, is still governed by policy which is merely a guideline and lacks the force of law. Existing laws need revision to address emerging issues, as national health laws and policies do not necessarily bind states. Specific **s**tate Laws or policies addressing disease surveillance are necessary to strengthen commitment towards disease surveillance in each state, addressing the major shortcoming (Makinde and Odimegwu, 2018).

Furthermore, section 3 of the Act vests the President with the power to declare of Public Health Emergency and Public Health Emergency Zones. The declarations are usually justified on ground of overriding public policy/health. The challenge however is that internationally, any state making such declarations is supposed to observe certain benchmark set down by the International human rights law. It states that the process of quarantining of persons in times of public health emergency restrictions on human rights in the name of public health or public emergency should meet requirements of legality, evidence-based necessity, and proportionality. Restrictions such as quarantine or isolation of symptomatic individuals must, at least, be provided for and carried out in accordance with the law. They must be strictly necessary to achieve a legitimate objective, the least intrusive and restrictive available to reach the objective, based on scientific evidence, neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, and subject to review. When quarantines are imposed, governments have absolute obligation to ensure access to food, water, and healthcare (West Africa, 2019)**.**

Thus, in situations where the requirements are not complied with the court have upturned the decision to quarantine the person. This was done in the case of (Mayhew v Hickox**,** 2014) where an Ebola contact victim was placed under mandatory quarantine for twenty-one days upon her return to the United States. She contested the quarantine decision based on the fact that she was asymptomatic and Ebola can be transmitted only by symptomatic persons, as such the mandatory quarantine constitutes an unreasonable violation of her right. The court set aside the decision as it found that the public health authority did not satisfy the burden of proving that quarantine is necessary to protect other individuals from the dangers of infection (Ekechi-Agwu, 2019). Similarly, **in the** Jew Ho v Williamson**,** the US Circuit Court for the Northern District of California found that the quarantining of some Chinese residents was unreasonable, unjust, oppressive, and discriminatory, being contrary to the provisions of the **F**ourteenth **A**mendment of the US **C**onstitution. It was therefore struck down (Jew Ho v Williamson). In addition, at all times when victims are quarantined**,** the interests of the victims remain the overriding concern of the government. By implication therefore**,** a quarantining condition that fails to attain the basic needs of the victim or purpose for that course could be considered discriminatory, a conduct which is prohibited by law including Nigerian law (Nwafor and Nwafor 2017).

6.3. Lack of Institutional Framework

While the creation of an agency may provide some options for structured response to infectious diseases, the lack of proper laws for the system will prevent the institutional framework from achieving its aim. The Nigerian Center for Disease Control (NCDC), which is sponsored by the US Centers for Disease Control and Prevention (CDC), is the major agency in charge of infectious disease management. It has been in business since 2011.

In 2017, the Federal Executive Council approved a memo to establish the NCDC as a standalone government institution**.** However, the challenge is that this institutional framework is weak, with an equally weak legal framework to support it, and the IDSR strategy still remains a mere policy. As a result, these institutions are unable to deal with emergencies such as the Ebola and COVID-19 outbreaks. Such events frequently show flaws in the national public health infrastructure, such as the absence of, or poor condition of, health care facilities for victims of infectious diseases, as well as a lack of human capacity to conduct government health policies. The QA predates the IDSR policy, and the diseases to be tracked do not always align. As a result, a strong institutional structure is required for infectious disease management.

6.4. Lack of Political Will

Fighting infectious diseases is not a mean encounter. Every government engaging on such must have a focus and a determination to fight all the way and not give up. However, the main challenge is that the Nigerian government lacks the political will to project healthcare to the highest political level. This can be seen from the delay in passing the public health Bill into law to replace an archaic 1924 QA to effectively galvanise the respective health institutions to become proactive and not mere reactionary in approach. Even after the Bill was passed by the Senate in 2022, the then-President did not accede to the Bill before he left office. There is therefore a need to educate lawmakers and Policymakers on the importance of giving priority to global health security-related laws.

6.5. Resilient Future

The new CIDB is already saddled with several criticisms that may impede implementation. The challenge is that a resilient future is only possible by ensuring a healthy population and also ensuring the adoption of a holistic approach to health which the new bill failed to addressed. The strategy therefore is for the Nigerian government to plan for a strong resilient future where the citizens' health is guaranteed. Such healthy population should be backed by segregated data that will enable the health institutions to function efficiently. **A** revised or new legal instruments establishing disease surveillance must devise adaptive, holistic and forward-looking approaches to the detection, prevention, monitoring, control, and mitigation of emerging infectious diseases, incorporating the complex interconnections among species, ecosystems, and human society, while accounting fully for harmful economic drivers and perverse subsidies (Buckeridge and Cadieux, 2006). The paper asserts that without these improvements in the law it will be very difficult to have an improved health management system (healthy population) with a resilient future.

6.6. Lack of a Formal Current Contingency Plan

The lack of a formal contingency plan for emergency preparedness and response at Nigeria's Points of Entry or Exist (PoEs) poses a threat in the event of an emergency, such as a disease outbreak, because staffs at these PoEs do not have a standardized plan to follow, resulting in an unorganized response. The establishment of such plans allow for a more consistent approach in terms of coordination and response, as well as compliance with IHR requirements. Furthermore, there is no clear flowchart to indicate the flow of activities or tasks from the federal level to the **l**ocal government levels (Eteng et al., 2022). As a result, the locals are not carried along in most of the activities that emanate from the federal level.

6.7. Lack of Funds

Health is still a low priority in Nigeria; 4.526 percent of the country's budget was appropriated to the health sector in 2021 and 4.3 percent in 2022, 5.75% in 2023, 4.47% in 2024, and 5.18% in 2025 (Orie, 2023; 2025 Health Budget Policy Brief). These allocations are all contrary to the 2001 Abuja Declaration by African leaders and the 15 percent value stipulated by the WHO. The Abuja Declaration, made by African Union (AU) member **S**tates in 2001, pledged to allocate at least 15% of their national budgets to the health sector. The result is that Nigeria's efforts in attaining sustainable health and eradication of COVID-19 are arbitrary, thereby resulting in avoidable fatalities. There is no doubt that the country cannot adequately fund the health sector with such a meagre budget as she presently has. There is need to demonstrate sufficient political will towards attaining sustainable health care by complying with the Abuja declaration in 2001 by the African Union and the WHO recommendation.

These avowals and endorsements by the two organisations are designed to improve healthcare systems and address pressing health challenges in the region. In the circumstances, it will also be necessary to secure external and internal funding for outbreak preparedness and response, especially since there is currently a huge budgetary deficit.

6.8. Inadequate preparedness and response strategies

The implementation of preparedness and response strategies by the NCDC has improved, but it is still below global standards. Coordination, though smooth at the national and internal stakeholder level, remains a problem at the state and Local government levels. The QA should be amended to ensure *a* more robust and decentralised response mechanism at all levels and enable prompt actions in remote areas. To achieve this purpose, the QA should also provide for mandatory reporting of suspected cases, which will enable early detection and rapid control measures, according to Nigeria Health Watch. Other measures could include the creation of Public Health Emergency Operations Centres (PHEOCs) at the local government level to enhance coordination and collaboration at the subnational level. At the International level, it should also ensure coordination with relevant international bodies for disease control.

7. CONCLUSION AND RECOMMENDATIONS

The paper presents an analysis of the current status and appropriateness of Nigeria's regulatory framework for disease surveillance. The QA and the NHA currently control disease monitoring in the country. The National Health Act and the Child Rights Act 2003 did not provide for infectious disease management. The IDSR strategy, developed to implement the IHR, is still governed by policy which is merely a guideline and lacks the force of law. However, the QA is obsolete and besieged with criticism which challenges the government's ability to achieve quality health governance of infectious diseases**.** Nigeria must improve her health outcomes by amending the QA in line with global best practices to address major health issues like infectious diseases, provide more robust and decentralised response mechanism and enable prompt actions in remote areas whilst encouraging coordination and collaboration at both international and national levels.

Based on these findings, the paper makes the following recommendations towards streamlining QA to effectively address public health emergencies in Nigeria. The QA needs to be amended, strengthened, and its provisions made clear to avoid confusion. Effective health governance in Nigeria necessitates a well-structured legislative framework to facilitate policy execution, coordination and collaboration at all levels. The resource allocations should also comply with the Abuja declaration and the WHO recommendation.

It further recommends that such legal instruments establishing disease surveillance whilst validating citizens' constitutionally guaranteed fundamental human rights should also devise adaptive, holistic, and proactive approaches to the detection, prevention, monitoring, control, and mitigation of emerging infectious diseases. Precisely put, the Act should strike a balance between necessary emergency measures and the constitutionally guaranteed rights of citizens.

The PoEs should also have a defined contingency plan for emergency planning and response.

8. REFERENCES

Africa Centre for Disease Control (2020). 'Coronavirus Disease 2019 (COVID-19) Updates,'. Available from: https://africacdc.org/covid-19/ **[**accessed 24 March 2024].

Anaemene B. U. (2016). Localising the Global: The WHO International Health Regulations and Domestic Health Governance Mechanisms of Infectious Diseases in Nigeria. Available from : https://www.researchgate.net/publication/336073572_Localising_the_Global_The_WHO_International_Health_Regulations_and_Domestic_Health_Governance_Mechanisms_of_Infectious_Diseases_in_Nigeria. [accessed 1 January 2023].

Andam, Edeh, Oboh, Pauw, and Thurlow, (2020).'Impacts of COVID-19 on Food Systems and Poverty in Nigeria', doi: 10.1016/bs.af2s.2020.09.002

Baker, RE., Mahmud A.S, Miller,I, Rajeev, M , Rasambainarivo F , Rice, BI , Takahashi, S, Tatem

A.J , Wagner, C.O , Wang,L , Wesolowski, A , Metcalf, C.J.E, 'Infectious Disease in an Era of Global Change (2022) (4) *PubMed , Nat Rev Microbio,* 193-205. 10.1038/s41579-021-00639-z. [accessed 24 March 2024].

Barreto M. L , Teixeira M.G. and Carmo E.H, (2006). 'Infectious Diseases Epidemiology' (60) (3) *J Epidemiol Community Health* 192–195. doi: 10.1136/jech.2003.011593 [accessed 24 March 2024].

Buckeridge D and Cadieux G. , (2006) Surveillance for Newly Emerging Viruses, Perspect *Med Virol*. 16: 325–343. doi: 10.1016/S0168-7069(06)16013-9

CV-2014-36 (D.Maine Oct 31, 2014)

Ekechi-Agwu C. A, *Regulating Public Health Emergencies in Nigeria: Prospects and Constraints*. (2019). *J. of Law and Judicial System,* 2(4):9-16. DOI: 10.22259/2637-5893.0204002

Governance Institute of Australia (2025). What is Governance? Available from: https://www.governanceinstitute.com.au › resources [accessed 24 March 2024].

HEALTH BUDGET POLICY BRIEF 2025 *https://csj-ng.org › publication › 2025-health-budget-p...* [accessed 24 March 2024].

Health Promotion and Disease Prevention Directorate (HPDP) Malta, (2025) *http://hpdp.gov.mt › idcu › what_are_infectous_diseases*___ [accessed 10 May 2025].

IMF (International Monetary Fund) ; Washington, DC: Policy Responses to COVID-19 Policy (2020) . Available from: Tracker. https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#N. [accessed 1 February 2024].

Isere, E E., Fatiregun, A. A. , and Ajayi I. O. (2015). 'An Overview of Disease Surveillance and Notification System in Nigeria and the Roles of Clinicians in Disease Outbreak Prevention and Control (56) (3) *Niger Med J.* 161–168 doi: 10.4103/0300-1652.160347 [accessed 24 March 2024]

Jew Ho v Williamson, 103 F.10 (N.D. Cal.1900).

Koyuncu, A. (2008). Infectious Diseases Control Law . In: Kirch, W. (eds) Encyclopedia of Public Health. Springer, Dordrecht. https://doi.org/10.1007/978-1-4020-5614-7_1770

Makinde O.A and Odimegwu C.O (2018), 'A Qualitative Inquiry on the Status and Adequacy of Legal Instruments Establishing Infectious Disease Surveillance in Nigeria'. *31Pan Afr Med J*., 22 . Available from : https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6430840/ [accessed 24 March 2024].

Merriam Webster's Word of the Year (2020). | Pandemic Available from: https://www.merriam-webster.com *› ... › Arts & Culture* . [accessed 24 March 2024].

Nigeria Centre for Disease Control and Prevention (Establishment) Act, 2018 vol 105.(No. 18 of 2018).

Nwafor G.C and Nwafor A.O, "The Healthcare Providers-Patients Relationship and State Obligations inTimes of Public Health Emergency" (2016) 9 African Journal of Legal Studies 268 at 273. *In Proc. (PDF) Regulating Public Health Emergencies in Nigeria: Prospects and Constraints*. Available from https://www.researchgate.net/publication/374805038_Regulating_Public_Health_Emergencies_in_Nigeria_Prospects_and_Constraints [accessed May 02 2025].

Om Prakash Shukla vs Akhilesh Kumar Shukla & Ors, (1986). AIR 1043, 1986 SCR (1) 855 ; [2005] 5 NWLR (Pt. 919) 539; See also the case of Barry v Eric (1998) 8 NWLR (Pt. 562) 404

Omoyeni v. Gov. Edo State (2004). 5 NWLR (Pt. 865) 175 CA; Nationwide Dev. Co. Ltd. v. U.B.A. Plc (1996) 3 NWLR (Pt. 437) 435 CA; Abubakar v. B.O.A.P. Ltd. (2007) 18 NWLR (Pt. 1066) 319 S

Onyemelukwe C. (2016). Can legislation mandating vaccination solve the challenges of routine childhood immunisation in Nigeria. *Oxf Univ Common Law J*, 16:pp100–124.

Orie E. G, (2021) COVID-19 Pandemic, Migration and Human Rights Protection in Nigeria *(1) (1) National Open University of Nigeria Int. J. of Migration and Global Studies*, p170

Orie, E.G.(2023). Climate Change, Sustainable Health and COVID-19 Pandemic in Nigeria: The Legal Issues in Perspective. Med. Sci. Forum, 19, 7. https://doi.org/10.3390/msf2023019007

Oyinwola K A. (2020). Legal Analysis of The Challenges of Covid-19 Pandemic in Nigeria Being the text of the lecture delivered by Kazeem A. Oyinwola Esq., Managing Partner, Amofin Solicitors, Abuja at an Online Event organized by Tawakkul Multi-purpose Cooperative Society Limited, Ilorin.

Quarantine Act 1926 CAP Q 2 LFN 2004

Rotz LD, Khan AS, Lillibridge SR, Ostroff SM, Hughes JM. (2002). Public Health Assessment of Potential Biological Terrorism Agents .8 *Emerg Infect Dis*. 225–30
10.3201/eid0802.01016 [accessed 24 March 2024]

Shoba Ranganathan (2019) 'Infectious Diseases - An Overview' 3 *Encyclopedia of Bioinformatics and Computational Biology*, pp932-937.

The Constitution of the Federal Republic of Nigeria 1999. The Lagos State Infectious Diseases (Emergency Prevention) Regulations (2020). Available at https://pwcnigeria.typepad.com/files/infectious-diseases-regulations-2020.pdf. [accessed 2 March 2024].

Tognotti, E. (1997) Lessons from the History of Quarantine, from Plague to Influenza, In : Grmek MD and Buchet C, (eds). 'The Beginnings of Maritime Quarantine' Man, Health and the Sea. Paris: Honoré Champion, pp.39–60 https://pmc.ncbi.nlm.nih.gov › articles › PMC3559034> [accessed 27 March 2024].

Transparency International Global Health 'Health System Governance
Available from: https://ti-health.org › health-system-governance [accessed 24 March 2024].

West Africa: Respect Rights in Ebola Response|Human Rights Watch" available at http://www.hrw.org/news/2014/09/15/west-africa-respect-rights-ebola -response [accessed 29/09/2019]. *(PDF) Regulating Public Health Emergencies in Nigeria: Prospects and Constraints*. Available from: https://www.researchgate.net/publication/374805038_Regulating_Public_Health_Emergencies_in_Nigeria_Prospects_and_Constraints [accessed May 02 2025].

WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 (2020). Available from: https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020 [accessed 26 February 2024]

Womi E. O. E, Ganu V.J, Delia, A.B, Chandi G.M, Kenu E, Chikwe, I, Lokossou V.K, (2022). Capacity assessment of Nigeria for health emergencies preparedness and response. *Journal of Interventional Epidemiology and Public Health* 5(2):2. [**doi**: 10.11604/JIEPH.supp.2022.5.2.1244]: Available from : https://www.afenet-journal.net/content/series/5/2/2/full [accessed 14 March 2024].

World Health Organisation, 'Impact of COVID-19 on People's Livelihoods, their Health and Our Food Systems', https://www.who.int/news/item/13-10-2020-impact-of-covid-19-on-people%27s-livelihoods-their-health-and-our-food-systems [accessed 24 March 2024]

World Health Organization (WHO), International health regulations Available from: https://www.who.int *› Publications › i › item* [accessed 2 February 2024]

World Health Organization (WHO), Global Report For Research On Infectious ... (2012). https://apps.who.int › iris › 9789241564489_eng [accessed 10 May 2025].