

# **CIVIL AUTHORITY VS MILITARY CONDUCT: LEGAL EXAMINATION OF WIKE-MILITARY PERSONNEL INCIDENT, LAND ADMINISTRATION POWERS, MILITARY OBEDIENCE, ILLEGAL POWERS, HUMAN RIGHTS AND THE POLICE IN NIGERIA.**

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## **INTRODUCTION**

On a day like any other in Abuja an event unfolded to shake many Nigerians to their core. What began as a routine land-inspection by the Minister of the Federal Capital Territory (FCT), Nyesom Wike, turned into something else, a public showdown between civil authority and uniformed force; a spectacle of denied access; cameras rolling; a minister shouting; and a soldier refusing to yield. The scene, captured on video and circulated across social media, was raw, real, and charged<sup>4</sup>.

In that instant, Nigerians everywhere asked: Who really wields power in this country? The man with the file, or the man with the gun? For many, the answer felt less certain than ever.

What should have been a simple land-administration exercise ballooned into a dramatic confrontation when Minister Wike insisted on enforcing Abuja's land laws and the military personnel who was reportedly acting under orders stood his ground and refused the Minister entry into Plot 1946 in Gaduwa District. The result was a power-play that was captured on camera, dividing public opinion, and reopening old wounds about civil-military relations in our democracy<sup>5</sup>.

But this is more than a viral clip. What is at stake is constitutional principles, legal boundaries, and the rule of law. Under the Constitution of the Federal Republic of Nigeria, 1999, as amended, all lands in the FCT belong to the Federal Government; and the President has delegated day-to-day management of those lands to the FCT Minister<sup>6</sup>.

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<sup>4</sup> Soldiers Clash With FCT Minister Wike, FCTA Officials, Block Them From Accessing Land in Abuja (*Sahara Reporters 11/11/2025*) available at <https://saharareporters.com/2025/11/11/soldiers-clash-fct-minister-wike-fcta-officials-block-them-accessing-land-abuja?utm> accessed on the 27/11/2025

<sup>5</sup> Anthony Ailemen, Land dispute: Wike in heated argument with soldiers in Abuja (*Business Day 12/11/2025*) available at <https://businessday.ng/politics/article/land-dispute-wike-in-heated-argument-with-soldiers-in-abuja/> accessed on the 27/11/2025

<sup>6</sup> Wike- Yerima: A test of civil authority (*This day live*) available at <https://www.thisdaylive.com/2025/11/17/wike-yerima-a-test-of-civil-authority/> accessed on the 27/11/2025

The Land Use Act, 1978, given constitutional backing further strengthened that authority and gave the Minister the authority to allocate, inspect, approve, revoke or enforce land allocations within Abuja.

Meanwhile, the deployment of military personnel to guard or block a disputed private/residential estate plot appears to breach the limits of acceptable military engagement in civil or land-related matters. The Armed Forces Act is clear: service members may not lawfully carry out civil-law enforcement or act as land-guards without express authorization<sup>7</sup>.

As one Senior Advocate of Nigeria summed up in response to the clash: obedience to “superior orders” does not justify compliance with a “palpably illegal or manifestly unjust” directive especially when it interferes with a constitutional officer carrying out lawful duties.<sup>8</sup>

What took place in Abuja, therefore, had little to do with a simple land dispute. Rather, it was a test of raw democracy in Nigeria a moment of collision between institutions, laws, and public trust. It showed how there is a dangerous grey area, where might threatens right; where uniformed force overshadows civil mandate; where the law becomes optional, depending on who holds the gun. And to many Nigerians who have been victims of arbitrary power in forms such as land grabbing, forced evictions, or abuses from security personnel, the video felt like an affirmation of their fears, that rule of law remains fragile, conditional at best, and potentially disposable. This, therefore, will not be an article content with viral sound bites or viral outrage. It aims to unpack the legal, constitutional, and moral dilemmas that the confrontation has raised, to examine what rightful powers the FCT Minister has in land administration, to ask when and whether military obedience becomes illegal disobedience, to explore the human rights consequences verbal abuse on the dignity of the human person, to assess the role and limits of civil law enforcement, especially the police, in land disputes; and, finally, to confront a pressing question. In today’s Nigeria, do we truly live under civilian rule or does the shadow of the uniform still loom over the rule of law? In so doing, the article hopes to provoke sober reflection not sensationalism on institutional accountability, respect for law, and the future of civil-military relations in our country.

## **LEGAL AUTHORITY OVER LAND: POWERS OF THE FCT MINISTER AND STATE GOVERNORS**

Under the Nigerian legal system, all lands in a state are vested in the Governor of that state, who shall hold them in trust for the people.<sup>9</sup> This means that the Governor of each state has the duty to

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<sup>7</sup> Bukola Oyeniyi, Civil authority vs. military obedience: Legal analysis of the Wike-Yerima Abuja land incident (*westernpost* 13/11/2025) available at <https://www.westernpost.ng/civil-authority-vs-military-obedience-legal-analysis-of-the-wike-yerima-abuja-land-incident-by-bukola-oyeniyi/> accessed on the 27/11/2025

<sup>8</sup> Nathaniel Gbaoron, Wike–Yerima clash: Law professor condemns obstruction, cites supreme court rulings (*business day* 12/11/2025) <https://businessday.ng/news/article/wike-yerima-clash-law-professor-condemns-obstruction-cites-supreme-court-rulings/> accessed on the 27/11/2025

<sup>9</sup> Land Use Act, 1978 Section 1

allocate and manage all land within their state.<sup>10</sup> In furtherance of this duty, the governor has the power to:

- a) To grant statutory rights of occupancy to any person for all purposes;
- b) To grant easements appurtenant to statutory rights of occupancy;
- c) To demand rental for any such land granted to any person.
- d) To revise the said rental –
  - (i) At such intervals as may be specified in the certificate of occupancy, or
  - (ii) Where no intervals are specified in the certificate or occupancy at any time during the term of the statutory rights of occupancy;
- e) To impose a penal rent for a breach of any covenant in a certificate of occupancy requiring the holder to develop or effect improvements on the land the subject of the certificate of occupancy, and to revise such penal rent as provided in section 19 of this Act
- f) To impose a penal rent for a breach of any condition, express or implied, which precludes the holder of a statutory right of occupancy from alienating the right of or any part thereof by sale, mortgage, transfer or possession, sub-lease or request or otherwise howsoever without the prior consent of the Governor;
- g) To waive, wholly or partially, except as otherwise prescribed, all or any of the covenants or conditions of which a statutory right of occupancy is subject where, owing to special circumstances, compliance therewith would be impossible or great hardship would be imposed upon the holder;
- h) To extend, except as otherwise prescribed, the time to the holder of a statutory right of occupancy for performing any of the conditions of the right of occupancy upon such terms and conditions as he may think fit.<sup>11</sup>

The governor also has the right of ingress and egress upon any land as long as it is done within reasonable hours of the day, and the occupier is duty-bound to give the governor or any public officer authorised by the governor free access.<sup>12</sup>

Having considered the powers of the governor in relation to lands in the state, it is important to establish whether the Minister of the Federal Capital Territory has the same power as the governor, as this will determine whether or not he can and should be granted ingress by the military personnel. To determine this, we have to answer the question, “Is the Minister of the Federal Capital Territory equivalent to the Governor of a state?”

The short answer to this question is no; the long answer, however, is yes, though he is not a Governor in the traditional sense. This is because a governor is duly elected by the people of the state to hold such a position; a minister, on the other hand, is appointed by the president.

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<sup>10</sup> Ibid, section 2 and 5

<sup>11</sup> Ibid, section 5

<sup>12</sup> Ibid, section 11

The Federal Capital Territory is governed by the President of Nigeria, but for administrative convenience, he appoints the Minister of the Federal Capital Territory, who will administer the capital on his behalf.<sup>13</sup> This position is equivalent to that of a state governor; the minister is responsible for overseeing the development, maintenance and administration of the FCT.<sup>14</sup> His duties include:

1. Implementing federal government policies in Abuja
2. Overseeing urban planning and development
3. Managing public services and infrastructure
4. Ensuring security and public order within the FCT<sup>15</sup>

Flowing from the above, it is safe to say that the duty of the minister to oversee urban planning and development falls within the duty of the governor to allocate and manage all land in his state, particularly as it relates to urban lands.<sup>16</sup> As such, it is safe to say he also has the right of ingress and egress to the lands in Abuja for inspection.

Having established that the role of the Minister of the Federal Capital Territory is somewhat equivalent to that of a state governor in terms of responsibilities, it is safe to say that the current minister of the federal capital territory Nyesom Wike was within his right to seek ingress into Plot 1946 in Gaduwa District to determine that they were in lawful possession of the land in question and the occupier of the said land had a duty to grant him entry.

But does the fact that the occupier of the land is a military personnel exempt them from obeying the order of the Minister of the Federal Capital Territory? What is the limit to the power of those in the military?

### **CAN A MILITARY PERSONNEL DISOBEY A SITTING MINISTER?**

In a constitutional democracy such as that run by Nigeria, the military is under civilian control but not under every civilian officeholder. This is because, as provided in the 1999 Constitution of the Federal Republic of Nigeria (as amended), the President is the Head of State, the Chief Executive of the Federation, and the Commander-in-Chief of the Armed Forces of the Federation.<sup>17</sup> As the Commander-in-Chief of the Armed Forces, he exercises ultimate authority over the armed forces; as such, the entire Armed Forces is under his authority, so it appears that the Armed Forces is under the Civilian Authority, as Nigeria is running a Democratic system of government.

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<sup>13</sup> The 1999 Constitution of the Federal Republic of Nigeria (as amended), Section 302

<sup>14</sup> Davies Ngere Ify, Nigeria Capital | An Overview of the Federal Capital Territory, Abuja (November 13, 2024) available at <https://www.withinnigeria.com/piece/2024/11/13/nigeria-capital-an-overview-of-the-federal-capital-territory-abuja/> accessed 24/11/2025

<sup>15</sup> *ibid*

<sup>16</sup> (n9), section 2(1)(a)

<sup>17</sup> (n13), Section 130 of the Constitution of the Federal Republic of Nigeria

However, it is important to note that the Civilian Authority over the military is not absolute, this is because civilian officials outside the defence hierarchy, such as the Minister of the Federal Capital Territory, do not command authority over military personnel.<sup>18</sup>

Flowing from the above, it is safe to say that members of the Armed Forces can disobey a sitting minister, as they obey orders above theirs in the military hierarchy. But this raises the question: are they compelled to obey all orders?

The answer to the above question was stated by the Supreme Court in the case of *Onunze vs. State*,<sup>19</sup> where Justice Helen Ogunwumiju reaffirmed that military personnel are not required or permitted to comply with “palpable illegal or manifestly unjust” orders. He reminds us that the Nigerian military oath is to the Nigerian Constitution first, not to individual commanders. As such, armed personnel are only mandated to obey lawful orders; anything outside of that should not be tolerated, as no superior officer is above the law.<sup>20</sup>

Having established that a soldier is not subject to obeying civilian orders as he is subject to military rule, and must obey only lawful orders from his superior, it is time to consider:

1. Whether the order given by the Former Chief of Naval Staff, Vice Admiral Zubairu Gambo (retd.) to Naval Officer, Lieutenant A.M Yerima, to guard Plot 1946 in Gaduwa District was right and;
2. Whether the refusal of Lieutenant A.M. Yerima to allow the Minister of the Federal Capital Territory ingress into the land when he went to stop building construction on the land due to issues with the title to the land was proper.

### **WAS THE ORDER OF THE FORMER CHIEF OF NAVAL STAFF, VICE ADMIRAL ZUBAIRU GAMBO (RETD) PROPER?**

To answer this question, we must consider two things: “Is the retired Chief of Naval Staff, Vice Admiral Zubairu Gambo, a superior officer, whose orders must be obeyed by the naval officer, Lieutenant A.M. Yerima?” and “Is the order a lawful order?”

While the Armed Forces Act is silent of the power of a retired armed officer, based on international standard it is safe to say that the answer to the first question is a resounding NO, and this is because once retired, such persons ceases to be a military officer, and while he may be referred to by his

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<sup>18</sup> For more information on the structure of the Nigerian Army, see Nigerian Leaders, Nigerian Army Ranks, Symbols and Salary (Nigeria Leaders, September 18, 2024) available at <https://nigerianleaders.com/nigerian-army-ranks-symbols-salary/#:~:text=At%20the%20top%20is%20the%20President%20of%20Nigeria%2C,of%20Army%20Staff%2C%20responsible%20for%20all%20army%20operations>. Accessed 28/11/2025

<sup>19</sup> (2023)8 NWLR (Pt. 1885) 61

<sup>20</sup> Taofeek Oydokun, Obey the Last Order: Who do Soldiers Really Serve-the Law or the Commander? (Business Day, November 16, 2025) Available at <https://businessday.ng/life/article/obey-the-last-order-who-do-soldiers-really-serve-the-law-or-the-commander/> accessed 28/11/2025

rank, it is merely a matter of etiquette as he holds no position whatsoever.<sup>21</sup> As such, if the said officer loses all his benefits and power upon retirement, should he still be considered a superior officer?

This in turn answers the second question: if a retired soldier is not considered a superior officer, then his order should not be considered an order from a superior officer, and is at best a civilian order. An Armed officer obeys only lawful orders from his superior. So, was the order given by the retired chief of staff lawful?

The answer is no, this is because we have established that the minister of the Federal Capital Territory is akin to a governor, although not elected into his position, he has the power to oversee urban planning and development,<sup>22</sup> and he has the right of ingress and egress to determine the ownership of the said land or for inspection of the said land and any order intended to prevent him from carrying out his lawful duty is in itself unlawful.

### **CAN A RETIRED MILITARY PERSONNEL ISSUE ORDERS SUPERIOR TO A SITTING MINISTER?**

Having established the fact that a military personnel cannot obey a sitting Minister because the military only answers to hierarchy in the chain of command. The next question is whether a retired military personnel can issue an order superior to a sitting Minister?

The answer to the above question is no; a retired military personnel cannot issue an order superior to that of a sitting Minister. This is because their command authority usually ceases upon retirement or discharge. Therefore, once an officer retires, regardless of their rank, they are no longer under military command and do not wield military authority. This can be gleaned from the fact that he is no longer part of the established military chain of command<sup>23</sup> and no Nigerian law confers constitutional powers, immunity or law enforcement authority on a retired military personnel.

Hence, upon retirement, the legal status of a military personnel is that he becomes a private individual just like every other civilian; however, he is entitled to certain privileges if he retires as a top-ranking official in the Armed Forces, for example, He is entitled to life security aides that will guard him until he dies. The Armed Forces Act, which is the supreme code guiding military conduct, leaves no room for confusion<sup>24</sup>. Section 5 of the Armed Forces Act 2004 vests command

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<sup>21</sup> Robert Carlson, Are military personnel required to call retired officers by rank? (The Gun Zone, February 10, 2024) Available at <https://thegunzone.com/are-military-personnel-required-to-call-retired-officers-by-rank/#:~:text=Generally%2C%20no%2C%20active%20duty%20military%20personnel%20are%20not,specific%20situation%20dictates%20whether%20it%E2%80%99s%20appropriate%20or%20expected.> Accessed 8/12/2025.

<sup>22</sup> (n.14)

<sup>23</sup> (n.13) Sections 217 and 218 of the Constitution of the Federal Republic of Nigeria 1999 ( as amended)

<sup>24</sup> Armed Forces Act, 2004

of the Armed Forces in the President. In contrast, Section 7 of the Act makes the Chief of Defence Staff and Service Chiefs responsible for the command, discipline, and administration of their respective branch. Similarly, the 2024 Harmonized Armed Forces Terms of Conditions of Service goes further to state that a retired officer shall have no operational, administrative, or disciplinary authority over serving personnel. Hence, it is essential to note that those who once held power must remember that retirement ends command.

In this instant case, critically, the officer's defence – that he was following “superior orders” – does not hold water legally. The only “superior” with lawful authority to countermand the Minister's action would be a higher civil authority (for example, a Court issuing an injunction, or conceivably the President). A military superior, especially one not in the formal chain of command (a retired officer), cannot issue a command that suspends the operation of the law or the functions of a Minister of the Federal Republic.<sup>25</sup>

### **THE DOCTRINE OF ILLEGAL ORDERS**

Flowing from the above, the question is whether a military personnel must obey every directive given to them? The answer, is no. Officers must abide by lawful orders only.

### **THE RULE THAT AN ILLEGAL ORDER MUST NOT BE OBEYED**

It is clear that the order or directive given to Lieutenant A.M Yerima by the former Chief of Naval Staff, Vice-Admiral Awwal Zubairu Gambo (Rtd.), to obstruct the Minister of Federal Capital Territory, Nyesom Wike, from gaining access to the land for physical inspection in the guise of “obeying superior orders” is illegal. The illegality in that order stems primarily from the fact that no service law of the military permits a serving military officer to mount guard at private construction site,<sup>26</sup> especially in the instant case, where he was directed to mount sentry at a private property belonging to the retired armed officer he was assigned to, to obstruct the Minister of Federal Capital Territory, from gaining access to the land. This is not part of the duties or job function of a military personnel; therefore, a military personnel have no business manning a private building site.

Although it is the duty of a junior officer to obey orders from his superior, even though it is strongly upheld in the military and paramilitary circles, it has its own recognised limitation under the law.<sup>27</sup> Also, a retired military personnel irrespective of his rank is no longer part of the chain of command. The chain of command cannot be extended to include retirees. To do so, is to turn the military into a personal tool of influence, rather than a national institution bound by law.

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<sup>25</sup> (n.13), section 302

<sup>26</sup> Sebastine Hon, ‘Naval Officer in Face-off with Wike Breach the Law’ (12<sup>th</sup> November, 2025) available at <https://www.google.com/amp/s/punchng.com/naval-officer-in-face-off-with-wike-breach-the-law/%3amp>  
Accessed on 25<sup>th</sup> November, 2025.

<sup>27</sup> Ibid.

Under the Armed Forces Act,<sup>28</sup> a military personnel must obey lawful orders from their superior officer. However, an order becomes unlawful when it contradicts any valid law or obstruct a lawful public duty. The court had this to say in the recent case of *Onunze v. State* supra,<sup>29</sup> where the Supreme Court held emphatically, per Ogunwunmiju, JSC, thus:

“My Lords, the obligation to obey the orders of a superior does not include orders that are palpably illegal or manifestly unjust. Every military or police officer swears an oath upon commissioning. The Oath is not to obey all orders; it is to “preserve”, “protect,” and defend the Constitution of the Federal Republic of Nigeria against all enemies, foreign and domestic. When an officer obeys palpably illegal orders, they become personally liable for their actions and would be expected to face court-martial or official sanction for the wrongdoing.”

The clear principle from this case is that a military officer must refuse manifestly illegal instruction. The Constitution and the Armed Forces Act both affirm that military authority only exists within lawful command and any order outside that chain of command is illegal. Any officer acting on such an order is on unlawful duty. Hence, the Vice- Admiral Awwal Zubairu Gambo (Rtd) directive to Naval Officer A.M Yerima to prevent the FCT Minister inspection into the land falls into the category of unlawful order.

## **LIABILITY FOR OBEYING ILLEGAL ORDERS**

The next question is to determine whether liability accrues to a military personnel who obey an illegal orders? Under the Armed Forces Act (AFA), obedience to orders is mandatory, but only lawful orders attract protection. Also, Section 56 of the Armed Forces Act emphasize the need for “obedience to every lawful command”. A soldier cannot escape liability for carrying out an illegal order, even if it came from a superior officer. The Nigerian military law adopts the doctrine of individual responsibility. Even if the order comes from a superior, the subordinate remains liable if: the illegality is manifest or obvious, the act violates statutory or constitutional provisions, and the order is clearly outside military function.

From the perspective of general law, one could view the officer’s behaviour as constituting offences such as obstruction of a public officer, or even resistance to lawful authority, depending on the specific provisions of the Penal Code applicable in the FCT. Under the Penal Code (which applies in Northern Nigeria and the FCT), it is an offence to obstruct any public servant in the discharge of his functions.<sup>30</sup> Hence, obstructing a public officer (the FCT Minister) constitute a civil offence, and Section 114 of the Armed Forces Act makes it clear that committing a civil

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<sup>28</sup> (n.24) see section 54 of the Armed Forces Act, 2004.

<sup>29</sup> (n19)

<sup>30</sup> Penal Code Act, Section 148

offence is punishable within military justice as well. But this raises the question can a police officer arrest a Naval Officer A.M. Yerima for his action?

## **POLICE POWERS TO ARREST A SOLDIER**

In Nigeria’s constitutional and statutory architecture, the power to arrest is a fundamental attribute of civil law enforcement and a critical mechanism for maintaining public order, enforcing the rule of law, and protecting citizens. The Nigeria Police Force (NPF) is constitutionally recognized as the principal agency responsible for these functions and is empowered to exercise its powers without discrimination on the basis of profession, status, or uniform.<sup>31</sup> The question of whether and how the police may arrest a soldier who is a serving member of the Armed Forces raises important legal, procedural, and institutional considerations. On one hand, military personnel serve under distinct chains of command and are subject to military discipline. On the other hand, they remain citizens under the Constitution of the Federal Republic of Nigeria 1999 (as amended), and are equally accountable to civil-criminal law when their conduct falls outside the exclusive remit of military jurisdiction. A clear understanding of the constitutional foundations, statutory arrest powers, procedural safeguards, and inter-agency protocol is therefore essential to assess the legality of police action in incidents such as the Wike/soldier confrontation.

### **a. CONSTITUTIONAL AND STATUTORY BASIS**

The constitutional foundation of police authority is found in Section 214 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which establishes the Nigeria Police Force as the sole police institution for the Federation. By vesting policing powers exclusively in the NPF, the Constitution affirms that the maintenance of public order, prevention of crime, and arrest of offenders fall squarely within civil authority. The Constitution does not exempt members of the Armed Forces from this framework, nor does it subordinate police powers to military command. This reflects the principle that Nigeria is governed under civilian supremacy, even in matters involving uniformed personnel<sup>32</sup>. This constitutional mandate is operationalized by the Nigeria Police Act 2020. Section 38 of the Act authorizes a police officer to arrest without a warrant any person reasonably suspected of having committed a criminal offence. Crucially, the section expressly includes a person “reasonably suspected to be a deserter from any of the Armed Forces of the Federation,” thereby removing any ambiguity about police interaction with military personnel<sup>33</sup>.

The combined effect of these provisions is clear: the police possess original and independent authority to arrest soldiers where civil law is implicated.

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<sup>31</sup> The Nigeria Police Act, Section 4

<sup>32</sup> (n.13) Constitution of the Federal Republic of Nigeria 1999 (as amended), Section 214 for the Establishment and powers of the Nigeria Police Force.

<sup>33</sup> Nigeria Police Act 2020, Section 38 – Power of arrest without warrant, including deserters from the Armed Forces. Available at <https://placng.org/i/wp-content/uploads/2020/09/Police-Act-2020.pdf> accessed on the 30/11/2025

## **b. WHEN POLICE MAY ARREST A SOLDIER**

A soldier may be arrested by the police in several legally recognized situations.

First, where a soldier commits or is reasonably suspected of committing a civil offence such as assault, obstruction of lawful duty, unlawful restraint, or damage to property, the police may arrest without warrant if the offence occurs in their presence or if reasonable grounds exist. The law makes no distinction between a civilian offender and a military offender in such circumstances.<sup>34</sup>

Second, where a soldier is suspected to have deserted his unit, the Police Act specifically empowers the police to arrest. Desertion, though defined and punished under the Armed Forces Act, has implications for national security and public order, justifying police intervention.<sup>35</sup>

Third, where a soldier's conduct creates an immediate threat to public peace or safety, the police may intervene preventively, consistent with their constitutional duty to maintain law and order. This authority is not dependent on prior military clearance.

In all cases, the threshold remains "reasonable suspicion," not proof. However, that suspicion must be grounded in objective facts, not personal animosity or political pressure.

## **c. PROTOCOL AFTER ARREST**

Once a soldier is arrested, the same procedural safeguards applicable to civilians apply. Section 37 of the Police Act 2020 mandates humane treatment of all arrested persons and prohibits torture, intimidation, or degrading treatment.

Following arrest, the 1999 Constitution of the Federal Republic of Nigeria (as amended) requires that the suspect be brought to a police station and arraigned before a court within constitutionally permissible timelines. Detention beyond these limits without judicial oversight renders the arrest unlawful, irrespective of the suspect's military status.<sup>36</sup>

Where the alleged offence intersects with military discipline, police practice often involves notifying the soldier's commanding officer. This notification, however, is administrative courtesy rather than a legal prerequisite. The arrest remains valid even in the absence of military consent.

In appropriate cases, the military may apply to the court for the suspect to be released into military custody for prosecution under court-martial proceedings. Such transfer occurs under judicial supervision, reinforcing the primacy of civil authority in determining jurisdiction.

## **d. LIMITATIONS AND PROTECTIONS**

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> (n13), Section 35(4) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

Police powers to arrest are not absolute. Nigerian courts have consistently held that any deprivation of liberty must comply strictly with the law. In *Igweokolo v. Akpoyibo & Ors*,<sup>37</sup> the court reaffirmed that arrest powers must not be exercised arbitrarily or maliciously, and that abuse of arrest authority attracts civil liability.

Additionally, the Armed Forces Act provides internal mechanisms for arrest and discipline of soldiers by military authorities. However, these provisions do not override civil criminal jurisdiction. Rather, they operate concurrently, addressing offences that are purely service-related.<sup>38</sup>

This dual system requires restraint and professionalism from both police and military actors to avoid jurisdictional conflict and unlawful detention.

### **APPLICATION TO THE INCIDENT (WIKE/SOLDIER CLASH)**

Applied to the Wike/soldier incident, the legal position is straightforward. If the soldier's conduct constituted a civil offence or gave rise to reasonable suspicion of such an offence, the police were legally empowered to arrest him under Section 38 of the Police Act. The soldier's uniform does not shield him from civil arrest.

However, the manner of arrest, the treatment of the soldier, and the observance of due process remain legally significant. Any arrest perceived as punitive, politically motivated, or procedurally abusive would be vulnerable to constitutional challenge under Sections 34 and 35 of the Constitution.

Equally important is institutional coordination. While the police are not subordinate to military command, respectful engagement with military authorities after arrest can prevent escalation and reinforce mutual institutional legitimacy.

### **IMPACT ON PUBLIC TRUST**

Incidents involving the arrest of soldiers by the police are closely watched by the public. When handled lawfully and professionally, they reinforce confidence in civilian supremacy and equality before the law. When mishandled, they fuel perceptions of intimidation, power abuse, and institutional rivalry.

Ultimately, adherence to constitutional limits, statutory authority, and procedural fairness is what preserves public trust in both civil law enforcement and the armed forces.

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<sup>37</sup> Rofiat Popoola, *Igweokolo v. Akpoyibo & Ors* (judicial limits on police powers of arrest 16/4/2023) Available at <https://www.lawglobalhub.com/powers-nigeria-police-force-rofiat> accessed on the 30/11/2025

<sup>38</sup> Armed Forces Act – Internal discipline and arrest mechanisms. Available at <https://lawnigeria.com/2025/01/20/armed-forces-act/> accessed on the 30/11/2025

## **BROADER IMPLICATIONS FOR CIVIL–MILITARY RELATIONS**

The tussle between Nyesom Wike, the Minister of FCT and Navy Lieutenant A.M. Yerima underscores the urgent need to strengthen constitutional order, uphold professional military standards, and reinforce mechanisms for civil discipline. Effective civil–military relations rely on mutual respect, clear communication, and unwavering adherence to established command structures. Proactively addressing these concerns is essential to safeguarding Nigeria’s democratic stability and preventing the recurrence of similar tensions.

## **RISKS OF ERODING CIVILIAN AUTHORITY**

The recent altercation between Nyesom Wike, the Minister of the Federal Capital Territory (FCT), and a naval officer has once again exposed the fragile balance between civil authority and military discipline in Nigeria’s democratic setting. In liberal democracies like Nigeria, the military is constitutionally subordinated to civilian control,<sup>39</sup> and any breach of this principle threatens good governance, rule of law, and national stability.

Where military personnel participate in civilian land administration, enforcement or political disputes without lawful authority, the effect is to erode the constitutional command structure and to weaken public confidence in democratic governance. Such unauthorized involvement offends the provision of the Constitution, which prohibit military personnel from engaging in conduct outside the scope of their lawful duties. Below are the highlighted risk it involves:

1. **Undermining Constitutional Supremacy:** Sections 5 and 217 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) vest executive authority and control of the Armed Forces under a civilian authority. The refusal of the Naval Officer to allow officials from the Department of Development Control and the Minister of FCT, to access a site under their jurisdiction was both administratively and morally wrong. The military’s duty to protect should never override the oversight role of civil agencies. Such defiance undermines the constitutional principle of civil supremacy over military authority, which is a cornerstone of democracy.<sup>40</sup>

It also reinforces public suspicion that powerful individuals may be using state security forces for personal protection, a trend that corrodes institutional integrity<sup>41</sup>.

2. **Encouragement of Military Overreach:** The Armed Forces exist to protect the nation, not to override civil authority. The provision of the Constitution states that the military shall aid civil authority when called upon by the President.<sup>42</sup> The involvement of a military

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<sup>39</sup> (n.13) section 1 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

<sup>40</sup> Nnaa Kalu Nto , The Moral Lessons From Wike Face-off with the Military (12<sup>th</sup> November, 2025) Available at <https://www.thecable.ng/when-power-collides-the-moral-lessons-from-wikes-face-off-with-the-military/> Accessed on 5<sup>th</sup> December,2025

<sup>41</sup> Ibid.

<sup>42</sup> (n.13) see section 217(2)(c) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

officer in matters relating to land administration, demolition exercises, or urban enforcement exceeds the established legal limits of military deployment in civilian context. Incidents like this create dangerous precedents that encourage military encroachment into administrative, political, or property-related disputes. This not only broadens military overreach but also threatens the neutrality and professionalism of the Armed Forces.

3. **Breakdowns in Civil–Military and Inter-Agency Cooperation:** Effective governance in Federal Capital Territory, requires cooperation between the Army, Police, DSS, Civil Defence, and civilian administrative structures. A public confrontation between a Minister and a military personnel threatens this cooperative balance. Therefore, it encourages rivalry, misunderstanding of roles, and operational conflicts between agencies. The resulting fragmentation diminishes institutional coherence and weakens the capacity of government to act decisively and lawfully.

## IMPORTANCE OF RESPECT WITHIN CHAIN OF COMMAND

Military chain of authority or command is a foundational element of military organization and operation effectiveness. It established a clear line of authority and responsibility, ensuring that orders are executed efficiently and cohesively.<sup>43</sup> Therefore, the relevance for respect within the chain of authority are as follows:

1. **Order and Discipline:** The chain of command maintains order and discipline within the military. It ensures that commands flow smoothly from the highest ranks to the lowest, reducing confusion and promoting a structured environment where everyone understands their roles and responsibilities.
2. **Operational Efficiency:** A well-defined chain of command is essential for operational efficiency. It enables swift decision-making and execution, which is vital in high-pressure situations where time is of the essence.<sup>44</sup>
3. **Effective Communication:** It facilitates clear and effective communication. Orders and information are passed down the hierarchy, ensuring that everyone is on the same page and can act in a coordinated manner.<sup>45</sup>
4. **Mission Success:** Adherence to the chain of command is essential for mission success. It ensures that plans are executed as intended and that everyone is working towards the same objectives.

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<sup>43</sup> Deano McNeil, The Relevance and Importance of a Military Chain of Command (12<sup>th</sup> July, 2024) available at [https://www.linkedin.com/pulse/relevance-importance-military-chain-command-deano-mcneil-mpa-clee-u5ere?utm\\_source=share&utm\\_medium=member\\_android&utm\\_campaign=share\\_via](https://www.linkedin.com/pulse/relevance-importance-military-chain-command-deano-mcneil-mpa-clee-u5ere?utm_source=share&utm_medium=member_android&utm_campaign=share_via) Accessed on 28<sup>th</sup> November, 2025.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid

Hence, it can be deduced from the foregoing that chain of command is a cornerstone of military effectiveness, as it provides a structured framework for decision-making, communication, and accountability, ensuring that the military operates smoothly and effectively.

## **BETTER INTER- AGENCY COOPERATION**

Inter-agency unity refers to the collaboration and coordination among different agencies, organizations or departments of government to achieve common goals. Inter-agency cooperation is an indispensable factor in a complex security environment where governmental and security institutions clash; hence, the need to work collaboratively. Situations such as the Wike–Yerima confrontation highlight persistent challenges in Nigeria’s inter-agency interactions, particularly regarding authority, roles, communication, and jurisdiction. Below are the advantages of better inter-agency cooperation:

Firstly, effective cooperation ensures clear delineation of authority. When agencies of Government understand their statutory and constitutional mandates, whether relating to land administration, security, or enforcement operations they avoid jurisdictional conflicts that could escalate into institutional rivalry. For instance, under Section 4 of the Police Act 2020, the police, not the military, bear responsibility for maintaining law and order, handling civilian disputes. On the flip side, the military may only assist civil authorities in limited circumstances under Section 217(2) (c) of the 1999 Constitution (as amended) and Section 8 of the Armed Forces Act, and such assistance must be properly authorized and documented. Land administration itself is governed by the Land Use Act, particularly Sections 1 and 2, and it remains strictly within civilian control.

Secondly, strong cooperation supports coordinated and efficient responses. Clear communication channels and shared operational frameworks allow civilian authorities, police, and military personnel to act in unison, preventing contradictory decisions and enhancing public safety.

Thirdly, it boosts public confidence, as citizens are reassured when government institutions operate harmoniously and professionally.<sup>46</sup>

Therefore, from the foregoing it can be gleaned that stronger inter-agency cooperation is necessary for preventing role confusion and ensuring proportional, lawful responses and where agencies fail to engage in proper coordination, it creates avoidable conflict, jurisdictional friction and improper deployment of the Armed Forces.

## **PREVENTING FUTURE CONFLICTS**

It is crystal clear from the foregoing that the altercation between the Minister of the Federal Capital Territory, Nyesom Wike, and a Nigerian Navy Lieutenant A.M Yerima at a disputed land site in

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<sup>46</sup> O. Eboh, “Institutional Synergy and Governance Effectiveness in Nigeria,” *Public Administration Review* (2021) 82(2), 333–347.

Gaduwa, Abuja, is an unfortunate incident that exposes the weaknesses in civil and military relations as well as communication among government institutions. The confrontation, which was captured on video and widely reported, reflects both administrative lapses and a failure of coordination between agencies that should ordinarily work together for national order. The following has been suggested as a way to prevent future occurrence:

1. Provide inter-agency training for both civil and military officers to strengthen understanding of professional boundaries and respect for authority.
2. Deployment of the Armed Forces for internal operation must comply with Sections 5(4) and 305 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

### **HUMAN RIGHTS CONSIDERATIONS: DID WIKE'S REMARK VIOLATE THE SOLDIER'S DIGNITY?**

The exchange between the FCT Minister and the soldier raises the critical question of whether verbal abuse (whether or not from a public official) can amount to a violation of the constitutional right to dignity. Section 34(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)<sup>47</sup> provides that

*“Every individual is entitled to respect for the dignity of his person”*

The African Charter on Human and Peoples' Rights, domesticated in Nigeria through the African Charter (Ratification and Enforcement) Act,<sup>48</sup> expressly provides for the right to the dignity of the human person. It states;

*“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”*

Similarly, Article 7 of the International Covenant on Civil and Political Rights (ICCPR) to which Nigeria is a State Party prohibits degrading treatment.

Traditionally, these provisions are analysed in the context of torture, forced labour, or inhuman treatment, and this can be clearly seen in subsections (a) to (c), but Nigerian courts in the case of *Uzoukwu v. Ezeonu II*<sup>49</sup> have interpreted dignity broadly to include treatment that undermines a person's sense of worth. Here, the Court of Appeal explained that inhumane treatment to mean any

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<sup>47</sup> (n13), section 34 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

<sup>48</sup> Article 5, African Charter on Human and Peoples' Rights CAP A9 LFN 2004

<sup>49</sup> (1991) 6 NWLR (Pt. 200) 708

barbarous or cruel act or acting without feeling for the suffering of the other. The Court defines “body” to include not only the physical body but includes his “psyche” and other mental attributes.

From the holding of the court, degrading treatment occurs when an act “humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity.” Although this case did not involve verbal abuse, it provides a guiding principle: context and the impact of the conduct are crucial.

Against this backdrop, assessing whether the Minister’s remark calling the soldier “a fool” violated human dignity requires attention to the circumstances. Soldiers as we have established operate within an institutional culture where discipline, hierarchy, and public respect are central to their professional identity. A public insult from a political office holder may carry more weight than an insult from a private citizen. The power difference between a federal minister and a uniformed officer further heightens the potential for humiliation.

While Nigerian courts generally require a high threshold to find degrading treatment, they have also acknowledged that the conduct of state officials is held to higher standards.

Whether the language used by the Minister meets this threshold remains debatable. It may be argued that the remark, although unprofessional, does not rise to the level of inhuman or degrading treatment as understood by Nigerian jurisprudence, which often requires sustained humiliation or more severe treatment.<sup>50</sup> Conversely, because the statement was made by a public official during the performance of official duties, it could be seen as conduct falling short of public service ethics.

Even if a court is unlikely to declare it a constitutional violation, the conduct may still justify administrative or institutional consequences. The Nigerian Human Rights Commission considers verbal humiliation as conduct inconsistent with the right to dignity.<sup>51</sup>

Ultimately, this incident underscores the importance of respectful communication by public officials. In a democratic society, leaders are expected to uphold constitutional values, model civility, and maintain professional standards. The Minister’s remark, whether or not it meets the legal threshold of degrading treatment, raises broader concerns about governance, leadership ethics, and the conduct expected of those who hold public office.

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<sup>50</sup> See *Oluwatimilehin Adebayo v. Federal Republic of Nigeria* (2024, ECOWAS Court of Justice), see also *Martin Gegenheimer & 4 Ors. v. The Republic of Nigeria & Anor.* (Application No. ECW/CCJ/APP/23/20, ECOWAS Court of Justice)

<sup>51</sup> Micheal Olugbode, NHRC: Hate Speech is a Violation of Human Rights (This Day) available at [https://www.thisdaylive.com/2025/06/19/nhrc-hate-speech-is-a-violation-of-human-rights/?fbclid=IwT01FWAOpCJxlHRuA2FlbQIxMABzcnRjBmFwcF9pZAwzNTA2ODU1MzE3MjgAAR6Ri9YTfLR9ymjpXoQxmy1\\_VJMN1I4YxYWrgK6w---NcW5B1UozyXUssGyP9w\\_aem\\_BVmMXvwbBT8ROJ3k8YcVw](https://www.thisdaylive.com/2025/06/19/nhrc-hate-speech-is-a-violation-of-human-rights/?fbclid=IwT01FWAOpCJxlHRuA2FlbQIxMABzcnRjBmFwcF9pZAwzNTA2ODU1MzE3MjgAAR6Ri9YTfLR9ymjpXoQxmy1_VJMN1I4YxYWrgK6w---NcW5B1UozyXUssGyP9w_aem_BVmMXvwbBT8ROJ3k8YcVw)

## CONCLUSION

This article has examined the Wike/soldier incident through the combined lenses of constitutional authority, land administration powers, military obedience, illegal orders, police arrest powers, and human rights protections. Nigerian law consistently affirms that authority flows from legal instruments, not from office, rank, or uniform. The Constitution of the Federal Republic of Nigeria 1999 (as amended) establishes civilian supremacy under Section 1 and vests law enforcement powers in the Nigeria Police Force under Section 214, placing all persons and institutions under the authority of the law<sup>52</sup>. The Land Use Act 1978 lawfully vests land control in the state governors and by extension in the Minister of the Federal Capital Territory, subject to statutory limits and due process. Soldiers, though governed internally by the Armed Forces Act, remain subject to civil criminal law and benefit from constitutional guarantees of dignity and liberty. The cumulative effect of these legal regimes is that legality, not dominance, governs civil–military interaction<sup>53</sup>

Civilian authority forms the backbone of Nigeria’s constitutional order. Section 1(3) of the Constitution renders void any act inconsistent with its provisions, reinforcing the supremacy of lawful civil governance over all institutions, including the Armed Forces. Ministers and governors exercise authority only to the extent permitted by statute, and such authority must be respected when lawfully exercised<sup>54</sup>. Conversely, military resistance grounded solely in uniform or command culture undermines constitutional order. The Wike/soldier incident illustrates that civilian authority is institutional and legal rather than personal, and must be exercised and obeyed within defined legal boundaries

The principle of civilian supremacy does not however diminish the constitutional rights of soldiers. Section 34 of the Constitution guarantees the dignity of the human person, while Section 35 protects personal liberty<sup>55</sup>. These rights apply to every person in Nigeria without exception. While military discipline permits lawful restrictions necessary for operational effectiveness, such restrictions must be authorized by law and proportionately applied. Public officials therefore owe a duty of restraint and respect in their engagement with military personnel.

The incident underscores the importance of professionalism as a stabilizing force in civil–military relations. Civilian officials must exercise authority with composure, lawful restraint, and awareness of institutional limits. Soldiers are bound by the Armed Forces Act<sup>56</sup> to obey lawful orders and to challenge perceived illegality through established command and legal channels rather than confrontation. Where disputes arise, the law provides mechanisms for redress without resort

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<sup>52</sup>(n13), Constitution of the Federal Republic of Nigeria 1999 (as amended)

<sup>53</sup>(n9), Land Use Act 1978

<sup>54</sup>(n24), Armed Forces Act Cap A20 Laws of the Federation of Nigeria 2004

<sup>55</sup>(n13) Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>56</sup> Armed Forces Act Cap A20 Laws of the Federation of Nigeria 2004 available at <https://lawnigeria.com/2025/01/20/armed-forces-act> accessed on the 2/12/2025

to public escalation. Professional conduct on both sides preserves institutional dignity and prevents isolated incidents from developing into broader constitutional or security crises<sup>57</sup>

Public trust in governance is shaped not only by the content of laws but by how those laws are applied in moments of tension. Incidents involving senior civilian officials and uniformed personnel attract public scrutiny because they symbolize the balance of power within the state. When authority is exercised lawfully and with respect for human dignity, confidence in institutions is reinforced. When conduct appears excessive, demeaning, or politically charged, trust erodes. The enduring lesson of the Wike/soldier incident is that Nigeria's constitutional democracy depends on restraint, legality, and mutual respect. These values remain essential to sustaining public confidence and stable civil–military relations.

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<sup>57</sup> Commentary on civilian authority and military discipline in Nigeria available at <https://www.thisdaylive.com/index.php/2023/08/15/civilian-authority-and-military-discipline> accessed on the 2/12/2025