



THE ROLE OF THE JUDICIARY IN THE ENTRENCHMENT OF VIABLE DEMOCRATIC CULTURE IN NIGERIA

Panmak Joseph Dashan*

Abstract

The judiciary constitutes the foundational pillar of any structured society and serves as the hallmark of constitutional democracy as well as the bulwark of the people against repressive government and deprivation of rights and privileges. Democratic culture is sustained through a robust judiciary which ordains how society should be governed. In Nigeria, the judiciary has played a significant role in sustaining democratic governance through its interpretative and adjudicatory functions. However, in discharging this constitutional mandate, the judiciary faces numerous challenges including unwarranted political interference with judicial processes, politicisation of judicial appointments, arbitrary transfer of judges, poor remuneration, inadequate funding and facilities, bureaucratic red tape, and lack of institutional frameworks to sustain judicial independence. This work adopts a doctrinal research methodology drawing upon statutes, case law, textbooks, journal articles, periodicals and newspaper publications. The study finds that the judiciary has demonstrated remarkable courage in several landmark decisions that have strengthened Nigeria's democratic culture. However, challenges such as executive interference, corruption, delay in the administration of justice, and conflicting judgments continue to undermine judicial efficacy. The study recommends strengthening judicial independence through constitutional guarantees, merit-based appointments, improved funding and facilities, enhanced technology adoption, and enforcement of judicial accountability mechanisms to ensure the judiciary effectively sustains Nigeria's democratic culture.

Key words: Democracy, Democratic Culture, Judiciary, and Rule of Law

1. Introduction

The Judiciary is one of the three arms of government saddled with the responsibility of interpreting the law;¹ ensuring that law and justice in any given matter are properly aligned and that the

*Panmak Joseph Dashan, BL, L.L.M Legal Practitioner Jos, Plateau state
Panmakdashan@gmail.com or panmakjosephdashan@yahoo.com 08065449388

¹ Joel Barde, "Towards the sustenance of democracy and the rule of law in Nigeria: the role of the Judiciary" A.J.A.C.S (2013) Vol.6, No2, pg 128.

elevation of justice always triumphs.² In the distribution of powers according to the principle of separation of powers, the courts are vested with the exclusive right to determine justiciable controversies between citizens and the State. This power is enshrined in the Constitution of Nigeria.³ The Judiciary is the pillar of democracy and has proved its worth in an avalanche of judicial decisions. The Judiciary has stood firm in spite of the threats and difficulties confronting it, ensuring that the principles of modern democracy are aptly sustained.

Although in recent times, the scale of the Judiciary in Nigeria has been in a state of discontentment, the pendulous movement of the scale has raised doubts over the question of fairness of the third arm of government. Their interpretation of relevant laws governing the scheme of events in the polity sometimes appears biased and questionable. Despite the criticism confronting the Judiciary, one is tempted to applaud the Judiciary for preserving and enthroning a viable democratic culture in the nation amidst threats, as demonstrated by the myriad of decided cases adjudicated aptly by the Judiciary so far.

There will be no better test of excellence of government than the efficiency of the judicial system,⁴ and it suffices to say that the judiciary is the pillar of every democratic culture. Constitutional democracy is the true tenet of civilised and developed societies of the world. No meaningful development will be reckoned without the Judiciary championing the course of democracy, instituting a convivial legal framework for interpretation of laws, and safeguarding the Constitution. The Judiciary is the backbone of any surviving nation. Political civilisation is often judged by the degree of dispensation of justice by the Judiciary.

The courts over the years, particularly during the military era, have experienced an ugly face-off. The role of courts was circumscribed and laws were circumvented by the military in several ways, and the judiciary was confronted with barrages of draconian legislation which dealt with rights of citizens.⁵ Brutality, human rights violation, and recalcitrance to lawful orders were characteristics of the military regime. Throughout military regimes in the country, ouster clauses were regular

² Levis A, "The New York Times Reporting on Brown V Board of Education of Tapeka Quoted in oputa C.A" Our Temple of Justice" (1993) p. 52.

³ Section 6 1999 Constitution as amended.

⁴ Barde(n2) page 1.

⁵ Samuel S. N," The role of the Judiciary in good governance Traits and Travails" A.J.C.L.I (2013) Vol.1.

features of military legislation. The judiciary was rendered comatose by decrees which ousted the jurisdiction of courts.⁶

This work is divided into four parts. The first part deals with the conceptual clarification of terms used such as democracy, democratic culture and the judiciary. This part also examines features of democracy. The second part examines the Judiciary, Democracy and Good Governance, and Judicial Integrity in the Enthronement of a Viable Democratic Culture. The third part discusses the role of the judiciary in the entrenchment of viable democracy, examining various judicial decisions where the judiciary made pronouncements without fear or favour. This part also examines some of the challenges affecting the judiciary in the enthronement of a viable democratic culture. The fourth part concludes with recommendations on how to address the challenges discussed.

2. Conceptual Clarification

2.1 Meaning and Nature of Democracy

The concept of democracy has been understood by scholars to mean different things. This is to construe that there no any universally acceptable definition as different scholars perceived the concept in various ways. Many construe it to mean a form of government in which a significant portion of the society has a franchise to elect members of the governing body. Other observers would argue that a true democracy is a system of government that embraces universal adult franchise. While flaws exist in all democratic systems of government, most advocates accept Churchill's dictum that contemporary democracy as we know it is the least bad of all systems of government.⁷ The conceptual concept of democracy in its purest form comes from the Greek word "demos" – the people – and "kratos" – rule – and therefore means rule of the people.⁸ Democracy entails free and equal representation of people and the right of persons to participate in a system of government often practiced by electing representatives of the people by a majority of the people. The essence of democratic government is that people should be free from oppression and ensure that the rights of citizens are protected and adhered to.

⁶ Ibid.

⁷ Winston Churchill, 'the worst form of government' <www.abc.net.au/...concepts.htm> accessed 11 May 2023.

⁸ Wed, 'democracy' <[Http://www.plswed.org](http://www.plswed.org)> Accessed accessed 10th April 2024.

No doubt democracy has no meaning in the absence of rule of law, and its survival depends on the independence of the Judiciary and Legislature.⁹ Scholars of democracy have identified five major features of democracy by which a country can be described as democratic, which are as follows:¹⁰

a) Freedom of Speech

Freedom of speech enables citizens to contribute to the system of government through the instrumentality of the right way.

b) Freedom of Association

Freedom of association is one of the political rights. It guarantees the right to form and join any party or group of one's choice. The 1999 Constitution as amended gave right for independent candidature, requiring nomination by 50 people and support by two-thirds of the registered voters in the nation. Political parties assist in opening up political space for people to participate.

c) Periodic Election

For a democracy to succeed there must be periodic elections. The Constitution provides four years for the President and Governor, and for the Legislature the term is indefinite. The importance of periodic elections is that citizens have the right to elect leaders of their own choice at intervals; if a leader is not performing, the electorate can vote them out.

d) Accountability and Transparency

These terms are often used interchangeably but in actual practice are complementary. Through accountability, leaders are expected to account for their stewardship either through town hall meetings or the media because they hold office in trust for the people. From time to time, leaders should create avenues for social interaction. Transparency entails that all the affairs of government should be carried out in an open manner, not secretly.

e) Respect for Rule of Law

Rule of Law is the driver of democracy, ensuring that the affairs of government are carried out in strict compliance with established rules. From the above discussion, it is clear that there is a link

⁹ Ebegbulem. J.C, 'Credible Elections and Democratic Consolidation in Nigeria: the moral imperatives' *J.E.E.R.P.S Jeyeraps* (2013)2(4).

¹⁰ Ibid.

between rule of law and constitutional democracy. There cannot be constitutional democracy without rule of law.

Some scholars include free and fair elections as a feature of democracy. The system of an ideal democracy tends to ensure that elections are properly conducted in a peaceful and conducive atmosphere for the electorates to choose candidates of their choice to prevent imposition against the wishes of the people.

2.2 Meaning of Democratic Culture

Democratic culture is a culture in which individuals have a fair opportunity to participate in all forms of meaning-making that constitute them as individuals.¹¹ It involves removing the political, economic and cultural elitists from their thrones and allowing everyone to participate in a democracy.¹² Democratic culture is one where everyone has the right to participate in political activities without fear of any form of intimidation. The whole essence of democracy is to imbue a democratic culture, an ambient political environment for all sundry.

2.3. Nature of the Judiciary

The Judiciary has been variously defined. According to Black's Law dictionary¹³ it is that branch of government, invested with the judicial power; the system of courts in a country; the body of Judges; the bench; that Branch of government which is intended to interpret, construe and the Law.¹⁴ The Judiciary is the institution saddled with the role of interpretation of law.¹⁵ We must appreciate the fact that the Judiciary sometimes moves out of this traditional role and makes laws. It is undaunted to say that all the definitions are pointers to the role the Judiciary plays in the society as the custodian of judicial power, the scope and content of which differs from place to place.

¹¹ Jack Balkin, 'Digital Speech and Democratic culture: A Theory of freedom of Expression for the information Society' *New York University Law Review* Vol 79.1 (2014).

¹² Randy F.S, "What democratic Culture "<P3 at [atuuschaaw.blogspot.com/2009/02/ what- is- Democratic culture.html](http://atuuschaaw.blogspot.com/2009/02/what-is-Democratic-culture.html)>accessed 10th April 2024.

¹³ Bryan A Garner, *Black's law dictionary* (8th Edition west Publishing Company)

¹⁴ Ibid

¹⁵ Ayoola Ayoolola, 'Lawlessness and the Rule of Law '>accessed 10th April 2024.

2.4 Nature of Rule of Law

A. V. Dicey defined rule of Law as it means in the first place the absolute Supremacy of predominance of regular Law as oppose to the influence of prerogative or even of wide discretionary authority on the of government. English men are ruled by law and by Law alone, a man may be punished for a breach, of the Law but he cannot be punished for nothing else. It means again, equality before the Law or equal subjection of all classes to the ordinary Law of the land administered by the ordinary Law court, the rule of Law in this sense excludes the ideal of officials or others from the duty of obedience to the Law which governs other citizens or from the jurisdiction of the ordinary tribunal.¹⁶ Jurisprudentially A.V. Dicey offered the most classical account of rule of Law as follows:¹⁷

1. The Supremacy of Law as opposed to arbitrary power.
2. Equality before the law of all persons and classes including government officials.
3. The incorporation of Constitutional Law as a binding Charter of the ordinary Law of the land.

John Raw provided contemporary dimension of the ideal of rule of Law as follows¹⁸:

1. Requirement that compliance be possible. Thus means that the action which the rule of Law requires and forbid should be a kind which can be done or avoided.
2. The requirement of regularity which presupposes that the legal system should reflect the precept that similar cases should be treated similarly.
3. The requirement of publicity which means that the Law should be known expressly promulgated and the meaning of the law should be clearly defined.
4. The requirement of generality. This means that the Laws and other rules should be general installment and should not be aim at particular individual.
5. The requirement of due process Section 36 (1) of the 1999 Constitution. This means that the legal system should provide for fair and orderly process for determination of cases.¹⁹

Any government that claims adherence to rule of Law must observe these fundamental principles.

¹⁶ Albert V.D. "Law of the Constitution" London, Macmillan, (1950) P194

¹⁷ Ibid

¹⁸ Joseph Raz, "The Rule of Law and its Virtues" (Law Quarterly Review 1997).

¹⁹ Attorney General of Bendel V Attorney General of the Federation (1991) 5NWLR pt.173 p 593 at 650

- i. All acts must be in accordance with Law in order to be valid.
- ii. Governmental activities must be conducted within the frame work of defined rules and regulations.
- iii. Disputes involving legality of government actions must be decided by courts independent of the government.
- iv. There should be no undue privileges and discrimination in society, and no one should suffer punishment outside the authority of law.

The concept of rule of Law in modern times goes further to include good governance transparency and delivery of dividends of democracy. The case of *Phoenix Motors Limited V Npemb*²⁰ Niki Tobi state that: “The concept of rule of law means that the Constitution is the highest Law of the land. All others Laws bow to it for salvation. No law is inconsistent to it can survive.” Rule of Law related to fundamental right and freedom, it also suggests the existence of democracy providing liberty and freedom. The 1999 Constitution contain impressive list of theoretical safeguard for the protection right of the citizen.

3. The Judiciary, Democracy and Good Governance

Good governance is a prerequisite to national building and national development. It encapsulates, inter alia, transparency and accountability of public affairs and full involvement of all people in the political process. Good governance can also be perceived from the angle of democracy as rendered by Abraham Lincoln being "government of the people by the people and for the people." It then means that a government that wants the best for the majority seems to be in accord with this definition.²¹

The Nigerian Constitution unequivocally states that the welfare of the people is the primary purpose of government. Democracy is a form of government which guarantees that the rights of citizens are not abridged except through the due process of law. Democracy is characterised by the rule of law, free choice of leaders, frequent and regular elections, independent judiciary, and separation of powers. Checks and balances and flourishing of human rights are regarded as indices

²⁰ (1993)1 NWLR, pt. 272 at 718.

²¹ Ilufoye Sarafa. Ogundiya, “Democracy and good Governance; Nigeria’s Dilemma” (June 2010) *A.J.P.S.R.* Vol. 4(6) 201-208.

of good governance.²² Democracy specifies who constitutes the legitimate government and wields authority in the State (the elected representatives), how they acquire authority (free and fair elections, choice between parties) and how they are to exercise it (in broad harmony with the public good).²³

Corruption is a huge challenge in public administration in Nigeria. It is at the core of the crisis of governance, the establishment of a stable democratic order, rule of law development and welfare of citizens. The introduction of the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in the country is laudable. They have prosecuted and indicted corrupt politicians and administrators. Although in recent times the EFCC and ICPC have become barking dogs without laying hold of their victims. Politicians use the EFCC and ICPC to hunt their political enemies, thereby defeating the purpose for which they were established. Also, not much progress has been made in dealing with political corruption in electoral fraud and vote buying as demonstrated by the 2003, 2007, 2011, 2023 and 2025 Abia State elections. In 2001, at the inauguration of the anti-corruption Commission, President Olusegun Obasanjo adumbrated that:

With corruption, there can be no sustainable development or political stability. By breeding and feeding on inefficiency, corruption invariably strangles the system of social organisation. In fact corruption is literally the antithesis of development and progress.²⁴

Corruption does not make for good governance in any society where it holds sway. The Judiciary remains relevant to any discourse in democracy, good governance structure and development through the rule of law, so long as freedom and liberty and the total enjoyment of other rights of man is desired. It must be said that the Judiciary is relevant as it influences good governance through democracy by liberal interpretation of frontiers of the rule of law. The State exists to do justice. Justice is an obligation which the State owes its citizenry. Hon. Justice Ismail Mohammed is right when he posited that:

²² Akanbi M.M, The place of society in the promotion of transparency and good governance (delivered at the conference Ibadan Spectrum 2003 P.77

²³ *ibid*

²⁴ *Ibid*.

A judiciary which is independent and which is perceived to be independent within the community protects both itself and the freedom enshrined in the Constitution from invasion and corrosion. A Judiciary which is not impairs both.

The Judiciary is the vanguard for democracy and good governance²⁵ as such no society whether civilised or uncivilised can survive without the judiciary, being the life wire of any society.

4. Judicial Integrity in the Enthronement of Viable Democratic Culture

Judicial integrity can be fostered only in an environment of pervasive legality – that is a socio-political milieu in which there is constitutional guarantee of judicial independence and the right of all citizens without regard to race, gender, ethnic nationality, socio-economic circumstances, and religious persuasions to fair trial and equality before the law. The Judiciary enjoys institutional independence whilst Judges as law officers enjoy personal independence in the performance and discharge of their duties.²⁶ The word "integrity" stems from the Latin adjective "integer" (whole, complete). Integrity is the inner sense of wholeness derived from qualities such as honesty and consistency of character. People with integrity are predictable.²⁷

Transparency is an antecedent condition which must be different in the institutions of State and governance. Appointment to the bench must be meritocratic; every process regarding the judicial career of Judges must be based on objective and transparent criteria; court administration and judicial processes must be objective and transparent; legal and judicial information must be made accessible to both judicial officers and the public.²⁸ In the book "The English Judge" the author Henry Cecil, who was a County Judge in England, in one of his Hamlyn lectures avers that the integrity of Judges in England has been established. He said "the reputation for integrity on the English Bench has been established so firmly and far and so long that even the denigrators of English Judges do not suggest that they do not still bear and justly bear that reputation."²⁹

Judicial integrity is a derivation of the level of judicial accountability. In itself, judicial accountability can be fostered where there is a fair and effective disciplinary process; applicable

²⁵ Raymoond Zondo, *The Judiciary and Constitutionalism in democratic Society: the Judiciary in Globalized world* (IJL Year Book 1999).

²⁶ Dr. Arewa John.Adebisi. "Judicial Integrity in Nigeria Challenges and agenda for action" accessed July 15th 2024.

²⁷ Solomon Umoh. "Judicial Integrity in the enthronement of good governance" accessed 15th July 2024.

²⁸ Ibid.

²⁹ Ibid.

conflict of interest rules; income and asset disclosure; and high standards of judicial conduct and rules of judicial ethics.³⁰

It is an axiomatic fact that there must be no inappropriate interference with the judicial process, whilst judicial decisions must not be subject to any arbitrary revision, save upon due appellate review or mitigation by competent authorities. Judges should perform their duties on the basis of facts in accordance with the law devoid of sentiment, bias or any influence and without undue delay. Judicial officers must ensure that judicial proceedings are conducted fairly and that the rights of the parties are not eroded. The public perception of impartiality and independence of the Judiciary must be high; concomitantly, the Judiciary must have a high positive perception of itself regarding impartiality and independence.³¹

The State is under obligation constitutionally to guarantee the right to fair trial of all citizens by an independent, impartial and competent tribunal constituted by law.³² There are continuing grave violations of human rights and fundamental freedoms in Nigeria, including arbitrary detention, failure to respect due process of law, extrajudicial killings, excessive force by security forces, impunity for abuses by security forces, arbitrary arrests, prolonged pretrial detention, judicial corruption, executive influence on the Judiciary, rape, torture and other cruel inhuman acts, discrimination based on sex, sentiment, ethnicity, etc.³³

The struggle for human rights in Nigeria has concentrated on the protection of civil and political rights, to the detriment of socio-economic and cultural rights. This bias in favour of civil and political rights is attributable to a number of factors. It is responsive to the political and civil repression unleashed on Nigerians by successive military regimes since 1966 as well as the recognition of civil and political rights as fundamental human rights in the Constitution while socio-economic and cultural rights are recognised and subsumed under the Fundamental Objectives and Directive Principles of State Policy.

There is a dire need for the Judiciary to restore the lost confidence in its sanctity and integrity; the bench must always base its conduct in judicial process on the provisions of Section 36 of the Constitution of the Federal Republic of Nigeria.³⁴ which guarantees fair hearing. Bias fuelled by

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ 1999 Constitution as amended.

corruption, lack of critical technical skills and capacity, lack of institutional independence and individual independence of Judges, and so forth erode and negate the fundamental rights of the citizenry to justice.

The Judiciary must be up and doing to see that justice is really instituted and ensure that corrupt Judges are given appropriate sanctions. Integrity and transparency should be the watchword of every judicial officer. Also, the appointment of Judges should be based on objective and transparent criteria. The Judiciary must be more courageous in its rulings so that they will continue to provide confidence and a bastion of hope to the general public.

5. The Role of the Judiciary in the Entrenchment of Viable Democratic Culture in Nigeria

In Nigeria the Judiciary is saddled with the enormous task of sustaining and enthroneing a viable democratic culture. It has indeed fared well and has been instrumental in instituting and promoting good governance in the country despite the challenges confronting it. The ultimate goal of our constitutional order is not merely to produce democratic procedures but a democratic culture: a culture in which all citizens can participate and feel that they have a stake, a culture in which unjust social privileges and status hierarchies have been dismantled. Democracy inheres not only in procedural mechanisms like universal suffrage but in cultural modes like dress, language, manners and behaviour. Political egalitarianism must be nourished by cultural egalitarianism.³⁵

The Judiciary plays a vital role as a social activist in the Nigerian progressive democratic reality. The growing role of the Judiciary has intervened³⁰ in enthroneing a viable democratic culture. The judicial intervention in the 2007 election in Anambra State was a remarkable judgment where the election of Andy Uba was nullified on the ground that there was no election ab initio given that the tenure of Peter Obi, who was sworn in as Governor in 2006 after a protracted legal battle to claim his mandate from Chris Ngige, had not exhausted his four years' tenure as at the time it was held. With that judgment, the confidence of Nigerians as to their electoral mandate was restored.³⁶ The Judiciary nullified some elections and upheld others. The election tribunal sitting in Akure, the State Capital of Ondo State, upturned the election of Dr. Olusegun Agagu as Governor of Ondo State. The judgment of the court was laudable by so many prominent Nigerians. The Court of

³⁵ Jack metadata Balkin, "The declaration and the promise of a democratic Culture" (1999 pp 6-7.)

³⁶ Ibid.

Appeal sitting in Calabar annulled the election of Cross River State Governor Senator Liyel Imoke in the 2007 election. On 14 October 2010, the Court of Appeal headed by its then President, Justice Ayo Salami, upturned the gubernatorial election in Ekiti State and sacked Governor Segun Oni of the People's Democratic Party (PDP). The court ordered the swearing-in of Kayode Fayemi of the Action Congress of Nigeria (ACN) as the duly elected Governor of the 14 April 2007 election. Another landmark judgment on 26 November 2010, a panel of the Court of Appeal presided over by Justice Clara Ogunbiyi sacked Prince Olagunsoye Oyinlola of the PDP from the Osun State Government House after he had spent more than three and a half years in office, declaring Aregbesola of the Action Congress (ACN) as the duly elected Governor.³⁷

The courts have remarkably upheld the tenets of rule of law and democracy in the above decisions. As Oguntaade JSC revealed in his reasons for his judgment in *Rotimi Amaechi v INEC*³⁸ and *Omeluma v PDP*³⁹:

Am I now to say, that although Amaechi has won his case, he should go home empty handed because election had been conducted into the office? That is not the way of the court. A court must shy away from submitting itself to the constraining bind of technicalities. I must do justice even if heavens fall. The truth of course is that when justice has been done, the heavens stay in place. It is futile to merely declare that it was Amaechi and Omenia that was the candidate of the PDP; what benefits will such a declaration confer on Amaechi?

The Judiciary upheld the election of some politicians who were duly elected. The Appeal Court dismissed Hashidu's suit against Governor Goje of Gombe State for being in violation of Section 141 of the 2006 Electoral Act which requires that any complaint arising from election should be filed within 30 days after election. Similarly, the court upheld the election of Governor Senator Albahiri of Yobe State, Dalti Buba Ahmed of Kaduna State and Governor Sullivan Chime of Enugu State.

³⁷ Ibid.

³⁸(2007) SC P15 at 22.

³⁹ (2008)5NWLR Pt 1080 at 227.

The judiciary seems to be awakened to its role by checkmating excesses from politicians. In the suit of *Attorney General of the Federation & 2 Ors v Alhaji Atiku Abubakar & Ors*⁴⁰, the court had to pronounce on whether the President has the power to declare the office of the Vice President vacant by reason of his joining another political party (ACN) different from the PDP under the platform on which he was elected. The Court of Appeal and likewise the Supreme Court ruled that the action of the President was in breach of the provisions of the 1999 Constitution which prescribes the method to be followed before the Vice President can be removed.

The Judiciary has since claimed the power to nullify on constitutional grounds acts of the Legislature or the Executive which are inconsistent with the Constitution. This was what the court exhibited in *Inakoju v Adeleke*⁴¹ and *Dapianlong v Dariye*⁴². The Judiciary exhibited courage in their judgment in the case of Dariye, where eight members out of 24 members of the Plateau State House of Assembly sat and voted for the impeachment. The Court of Appeal set aside the impeachment for failure to comply with provisions of the Constitution⁴³ and ordered the restoration of the Governor to his office. Also the Appellate Court set aside the impeachment of Rasheed Ladoja, Governor of Oyo State, on the ground that due process was not followed. Governor Peter Obi of Anambra State was impeached and went to court to challenge his impeachment.⁴⁴ He was subsequently reinstated. This decision gave the common man hope and confidence in the Judiciary. Late Justice Oputa JSC stated thus "the law will have little relevance if it refuses to address the social issues of the legislators. The Legislature makes laws in the abstract but the Court deals with the day to day problems of litigants and attempts to use the law to solve these problems in such way as to produce justice".⁴⁵

The cases of *Adeleke v Oyo State*⁴⁶ and *Ugwu v Ararume* and *Peter Obi v INEC*⁴⁷ demonstrate that the appellate courts were determined to take the truly Nigerian political bull by the horns by protecting the seat of democracy in the country. . In *Packer V Packer*⁴⁸ Lord Denning emphasizing

⁴⁰ (2007) All FWLR Pt 375 P 405.

⁴¹ (2007) SC 1.

⁴² (2007) SC. 140.

⁴³ See section 36(1) and 188 of the 1999 Constitution as amended.

⁴⁴ This day Newspaper, <www.thisdaynewspaper> accessed 2 February 2006.

⁴⁵ Ibid.

⁴⁶ (2006) 52 WRN 173.

⁴⁷ (2007) 3 WRN 1.

⁴⁸ (1958) P 15 at 22.

that there ought not to be hindrances or constraints in the way of dispensing justice. Recently the Supreme Court has determined electoral matters which bother on membership of a political party. In the case of *All Progressive Grand Alliance (APGA) v Senator Christian N.D. Anyanwu & 2 Ors*⁴⁹, the Supreme Court held aptly that membership of a political party is a domestic affair of the party concerned and the courts will not involve in deciding who the members of a political party are. This was also the position of the court in *Lado v CPC*⁵⁰

In *Hon. Goodluck Nana Opia v Independent National Electoral Commission & Anor*⁵¹, the appellant filed an originating summons under Section 68(1)(C)⁵² at the Federal High Court challenging the conduct of the supplementary election as well as the return of the 2nd Respondent as the winner of the supplementary election for Ohaj Ebema State House of Assembly. The trial court dismissed the suit for lack of jurisdiction; on appeal the Appellate Court affirmed the decision as well as the Supreme Court.⁵³ The same decision was also held in *Senator Christiana N.W. Anyanwu v Hon. Independent Chiedoziem Ogunewe & 2 Ors*⁵⁴ where the Supreme Court upheld the decision of the Appellate Court.

In the case of *Orhema Adugu Gbileve & Anor v Mrs. Ngunan Addingi & Anor*⁵⁵, the Plaintiff/1st Respondent won the primaries as the candidate to represent Buruku Constituency of Benue State House of Assembly in the general election. Irrespective of the press release confirming the Plaintiff 1st /Respondent's emergence as the winner, the State Secretariat of the party replaced her name with the 1st Respondent/Appellant's name as having won the election and a certificate of return was issued to him. Dissatisfied, the Plaintiff/Respondent filed an originating summons at the Federal High Court. The suit was resolved on the basis of the affidavit evidence before the court and judgment was entered in favour of the Plaintiff/1st Respondent. The court ordered that the Plaintiff/1st Respondent's name be returned as the lawful aspirant and that she should be issued with a certificate of return. The Respondents/Appellants' appeal to the Court of Appeal was

⁴⁹ (2014)SC 20/ 2013

⁵⁰ (2012) All FWLR (Pt 1025) 427 at 588F.

⁵¹ (2014)SC 16/2013.

⁵² ⁵³ Electoral Act 2010 as Amended.

⁵³ Ajayi V Adebisi (2012) All FWLR (Pt 634) at 30.

⁵⁴ (2014)SC. 21/2013, PDP V Sylva (2012)13 NWLR pt 13161 85.

⁵⁵ (2014)SC 193/2013.

dismissed and the judgment of the trial court affirmed, hence they further appealed to the Supreme Court which upheld the decision of the appellate court.

As a matter of fundamental principle, the survival and flourishing of democracy requires that those who exercise democratic political power must have limits set to what they may do, ⁵⁶limits which they are not allowed to overstep. A good example of this intrusion by the Judiciary is demonstrated in the case of *Oputa v Babangida*⁵⁷ where the Supreme Court courageously held that the power given to Parliament to make laws in regard to tribunals of inquiry as reflected in the Legislative lists contained in the relevant provision of the schedule to the 1963 Constitution was for whatever reasons, denied the National Assembly in both the 1979 and 1999 Constitutions of the Federal Republic of Nigeria.

Another notable case is *Attorney General of Ogun State & Ors v Attorney General of the Federation* ⁵⁸ where the Supreme Court held that the Act enacted by the National Assembly establishing joint local government Account Allocation committees for each State to regulate how the amount allocated to states for the benefit of local government is to be distributed was inconsistent with Section 162(8) ⁵⁹of the Nigerian Constitution. Similarly, in *Attorney General Ondo State v Attorney General of the Federation & Others*⁶⁰, the Supreme Court held that the provisions of the Act establishing the ICPC impugned the cardinal principles of the Federation, namely the requirement of equality and autonomy of the State Government and non-interference with the functions of State government. ⁶¹So also in the case of *Attorney General of Abia State & Ors v Attorney General of the Federation*⁶², the Supreme Court held that apart from the power conferred in items II concurrent Legislative list and Section 7(6)(a) of the 1999 Constitution,⁶³ the National Assembly does not possess any power to enact laws affecting local government.

⁵⁶ Ibid.

⁵⁷ (2002)4 SCNJ 1.86.

⁵⁸ (2002)12 SC 1.

⁵⁹ 1999 Constitution as Amended.

⁶⁰ (1967) AIR SC.

⁶² (2002)4 SCNJ 1

⁶³ 1999 Constitution as amended.

In India, the case of *Golaknath V Punjab*⁶⁴ the Supreme Court ruled that parliament could not curtail any of the fundamental rights in the Constitution. Similarly in *Kesavanada Bharati V State of Kerala*⁶⁵ by the majority of 76, the court held that under Article 368 of Constitution, parliament undoubtedly had power to amend any provision of the Constitution but the amendatory power did not extend to alter the basic structure or framework of Constitution. The above mentioned decision shows the pro-activeness of the Judiciary in instituting a viable democratic culture which every citizen will indeed be proud of.

The Supreme Court in 1979 affirmed the election of Shagari in the case of *Awolowo v Shagari & Ors.*⁶⁶ This is a matter of an election petition where the court was called upon to interpret Section 34 A (I)(II) of Electoral Decree No 73 of 1977. The Appellant contested the declaration of the first respondent as President of the Federal Republic of Nigeria on the grounds that Section 34 A (I)(C)(II) of the Electoral Decree had not been satisfied i.e. two-thirds of all the States of the Federation. The Election Tribunal dismissed the Appellant's claims affirming the election of the first respondent and subsequently the Supreme Court.⁶⁷

It is also worth mentioning the case of Imo State Governor, Rochas Okorocha where the Supreme Court upheld his election and also the case of Olusegun Mimiko of Ondo State where the Supreme Court upheld his election. The recent affirmation of the Supreme Court in the case of Adeleke of Osun State⁶⁸ in a unanimous verdict buttressed the role of the judiciary in sustaining democracy. The National Judicial Council on its own part has recommended the suspension of numerous Judges for delivering controversial judgments that many described as embarrassing to the Judiciary. Many other Judges were retired or dismissed for misconduct. Among such Judges that were compulsorily retired were G.K. Olotu of the Federal High Court and Hon. Justice U.A. Inyang of the High Court of Justice of the Federal Capital Territory Abuja. Others that were suspended were Justice C.E. Archibong of the Federal High Court and Justice T.D. Naron for alleged misconduct.⁶⁹

⁶⁴ (1967)AIR SC.

⁶⁵ (1973) 4SC at 225.

⁶⁶ (1979)ALL NLR 120 Pt 2.

⁶⁷ Pavilion,' Pavilionpersual'<[www.LawPavilionpersual.com/Law report](http://www.LawPavilionpersual.com/Law%20report)> Assessed 13th July 2014.

⁶⁸ Ameh Ejekwonyilo, 'Supreme Court Affirms Adeleke's election'<accessed 18th May,2023.

⁶⁹ Ibid.

In the case of *Fawehinmi v Abacha* ⁷⁰ the Supreme Court defended the rights of Nigerian citizens no matter who is in government. Section 6 of the Constitution of the Federal Republic of Nigeria ⁷¹ vests judicial power in the court to adjudicate matters. The courts and judges are imbued with enormous power to protect and institute justice in Nigeria and ensure that democracy thrives by giving decisions without fear or favour.

The introduction of the new Electoral Act 2022 has brought myriad innovations geared at establishing the foundation of a modern electoral process. Election petitions are sui generis. The introduction of Bimodal Voter Accreditation System (BVAS) accreditation and uploading of election results at polling units ensures a transparent electoral process.⁷² The election tribunal has 180 days to determine the matter before it from the date of filing. Any aggrieved party is duty bound to file an appeal within 21 days from the decision date. An appeal against the tribunal decision has to be disposed by the Court of Appeal and Supreme Court within 60 days. Appeal to the Supreme Court must be within 14 days from the date judgment was delivered.⁷³

All the aforementioned cases vividly buttress and highlight how the Judiciary in Nigeria has stood out in enthroning a viable democratic culture. It must be put to bear that the judiciary is expected to use its power bestowed on it by law to sanction executive and legislative excesses which adversely impact upon the rights of the people, which, in turn, would certainly enhance the core civil and political rights contained in our laws and other universal mechanisms. The judiciary has been playing a vital role towards advancing human rights and internal democracy in the country⁷⁴. Although there has been applause for the judiciary in enthronement of a viable democratic culture, the judiciary has been criticised in myriad decisions. The case of Senator Hope Uzodinma, the governor of Imo State – from fourth position in that election to first – many critics have tagged as robbery in broad daylight for the Supreme Court to declare him winner of the 2019 governorship election, while the candidate of the PDP had won the majority votes cast at the poll. The interference of the Executive in the Judiciary is worrisome. The removal of the former Chief

⁷⁰ (2000)6 NWLR SC Pt 666.pg 6228.

⁷¹ Section 6 of the Constitution of the Federal Republic as amended.

⁷² Unini Chioma, 'nigeria now look up to the judiciary to uphold the rule of law in the Electoral Process' <thenigerialawyer.com> accessed 18th may, 2023

⁷³ Samson Itodo, 'Inside the Courts and challenging election outcomes' <https://www.idea.int/net/newsmedia> accessed 18th May, 2023.

⁷⁴ Ebun-Olu Adegboruwa, 'Role of the judiciary in the development of democracy' *Tribune Online* (April 11, 2023).

Justice of Nigeria Walter Nkanu Onnoghen was effected abruptly through an *ex parte* motion without recourse to procedure, and determined by Danladi Umar's Code of Conduct Tribunal – a caricature of the sacred institution. The decision of the Supreme Court declaring the Senate President Ahmed Lawan as the authentic candidate of the All Progressive Congress (APC) in Yobe senatorial District and that of Godswill Akpabio as senatorial candidate for Akwa Ibom North West Senatorial district were received with mixed feelings by several Nigerians, criticising the apex court decisions.⁷⁵

The independence of the judiciary is important in the promotion of democracy, human rights and rule of law in a democratic culture, and it must be guaranteed by the constitution rather than the whims and caprices of individuals.⁷⁶

6. Challenges of the Judiciary in the Enthronement of a Viable Democratic Culture

It is clear that the judiciary has been avowing its constitutional mandate in safeguarding and enthroneing a viable democratic culture, in spite of the many impediments confronting its operation. The Nigerian judicial system has undergone series of criticism and is faced with challenges of judicial integrity amidst conflicting judgments flooding the legal circle with decisions of courts of coordinate jurisdiction giving orders against the same subject matters and several instances of contradictory and counter orders emanating from various courts.

The recent conflict of interim injunctions is that of the emirate tussle between the Aminu Ado Bayero and Muhammadu Sanusi II which occurred in Kano, involving the Federal and State High Court. The 2009 Emirate Council Law was repealed by the House of Assembly of Kano State and the enactment of Kano Emirate Council Law 2024 which reinstated the dethroned emir.⁷⁷ Justice A.M. Liman of the Federal High Court in Kano State on 23 May 2024 issued an *ex parte* order which suspended the implementation of the Kano State Council Repealed Law 2024 and not quite long, Justice Amina Aliyu of Kano High Court also issued another *ex parte* order on 27 May 2024

⁷⁵ ⁷⁵ Law Mefor, 'February 25 heist: is the Judiciary still the hope of the common man?'. <thecable.ng/February25-heist-is-the-Judiciary-still-the-hope-of-the-common-man> accessed 18 May 2023.

⁷⁶ Egun Olu adegboruwa 'Role of the judiciary in development of democracy' <www.guardian.ng/opinion> accessed 6th June, 2026.

⁷⁷ Fabbemi & Arewoola Deborah Musa 'Judiciary Faces integrity crisis of Conflicts Judgement' Punch News Paper 14th June, 2024.

which restricted Bayero from parading as the Emir of Kano. Justice S.A. Amobede of the Federal High Court Kano also issued another *ex parte* which affirmed the order earlier issued by Justice Liman and on the other hand conflicted with the order issued by Aliyu. Another conflicting issue is that of the immediate past Governor Yahaya Bello who filed a Fundamental Human Rights suit against the EFCC at the State High Court before Justice Isa Jamil to protect himself from being arrested and detained.⁷⁸ The interim order was determined against the EFCC and while determining the judgment on the substantive suit, the EFCC approached Justice Emeka Nwite of the Federal High Court Abuja for an arrest warrant on Bello which was issued. The political crisis in Rivers State is another issue where the courts had issued conflicting orders.⁷⁹

6.1 Independence of the Judiciary

Independence of the judiciary is one of the factors confronting the efficacy of the Judiciary. Ayoola JCA reiterated in the case of *Guardian Newspaper v Attorney General of the Federation*⁸⁰ that:

‘It has long been recognised that a vesting powers in an independent Judiciary is essential to justice and liberty which are operative ideals of our society and the foundations of our nation. Without an independent Judiciary exclusively charged with the nation's judicial powers there will be an easy betrayal of these ideals and the concept of the rule of law will become empty.’

6.2 Appointment of Judicial Officers

The appointment of judicial officers is provided for with respect to the superior Courts so recognised. With respect to the Supreme Court, the Chief Justice of Nigeria is appointed by the President on the recommendation of the National Judicial Council and subject to confirmation by the Senate. Other Justices of the Supreme Court are also appointed by the President on the recommendation of the Senate. The main qualification is fifteen years post qualification as a legal practitioner. The appointment of judicial officers is often a thing or instrument of political, ethnic,

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ (1999) 9 NWLR Pt 618 page 233.

social and cultural reward for parochial consideration which dictates the choice of judicial officers. The appointment of judicial officers by the government is a bid to make them loyal to their whip and caprices. Those who are saddled with the responsibility of appointment must not subject it to political, ethnic, religious consideration but should be based on merit.⁸¹

6.3 Power of Removal

Most appointments of Judges by the Executive are based on prejudice, bias or consideration other than efficiency and merit, therefore allowing the Executive to remove or discipline errant Judges any time. The case of Justice Salami comes to bear, where he was suspended by the government for refusing to apologise to the panel set to probe him for lying. The Executive used that as an avenue to suspend him because they foresaw that the election of Sokoto State would be overturned. Osita Nanmani Ogbu posited:

If Judges are to be hired and fired at the will of the Executive or the Legislature, they will form a very ineffective and porous shield in the defence of right and justice ... No matter the gravity of the alleged misconduct, due process must be followed.⁸²

6.4 Emolument, Funding and Facilities

The issue of remuneration, emolument, salaries, working conditions, retirement benefits, pension rights and general control and funding of the Judiciary in Nigeria has been a problem. Judges are made to work in very poor environments and without adequate tools. The decision in the case of *A.G. of Federation v A.G Abia State and Ors*⁸³ has introduced another dimension that the funding of the Judiciary should not be in the first charge on the consolidated revenue. This decision has economic implications of the provisions of the Constitution which the court interpreted ought to be considered. This is more so when the Judiciary would feel the more burden of haphazard funding arrangements.⁸⁴ The world is a global village and the use of technology in the judicial system is paramount. Technology should be deployed in our courts.

⁸¹ O.N.Ogbu " The Judiciary in a polity a furee for stability or in stability the Nigerian Experience" Vol.7 A.B.S.U L.J (2002) pg 15.

⁸² Ibid.

⁸³ *A.G. of Federation V A.G Abia State and Ors*. Page 16.

⁸⁴ Ibid.

6.5 Delay in the Administration of Justice

Court delay is the most common symptom of malfunctions within the justice system. The usual refrain is justice delayed is justice denied. The Chief Justice of Nigeria Hon. Justice M.L. Uwais was reported to have said that a case may take about seven years before it could be concluded in the Supreme Court alone. If citizens do not see the possibility of getting justice in good time, they may not be inclined to approach the Judiciary; confidence is being gradually eroded since they would eventually lose confidence in the system. Delay is sometimes caused by counsel who are apprehensive of chances of success of a suit. Justice Niki Tobi opined that:

So much time was wasted if not killed... the instant case took ten good years to be completed. It took the trial Judge more than six months to write the judgment after hearing the last witness.

Section 36 of the Constitution⁸⁵ of Nigeria provided for fair hearing and quick dispensation of justice. It thus provides further that any law which deprives any person of fair hearing within a reasonable time by a court in determination of his civil right is inconsistent with the provision of the Constitution. Dr. Mudiaga Ode (SAN) identifies the delay to justice as follows:

- a. Inadequate or unsuitable court accommodation, libraries and other infrastructure facilities.
- b. Unattractive conditions of service of judicial officers.
- c. Shortage of legally qualified judicial officers and supporting staff.
- d. Heavy judicial workload.
- e. Slow and archaic court procedure particularly in the trial court.
- f. Unsatisfactory performance on the part of some parties and their agents or representatives as well as low productivity on the part of some judicial officers.

Others are:

- i. Illness of a Judge

⁸⁵ See section 36 of the 1999 constitution as Amended.

- ii. Failure of the parties to comply fully with the provision of rules of court.
- iii. Adjournments granted on the motion of the parties in both criminal and civil proceedings.
- iv. Indolence or laziness of the judicial officers.
- v. Failure of government to provide transportation, working environment, affects the ability of the judicial officer in reading, writing, hearing or listening, taking and reasoning.⁸⁶

Late Justice Oputa in *A.G Kaduna v Hassan*⁸⁷ said:

There is perhaps no question more fundamental in the whole process of adjudication than that of access to the court. He, who cannot even reach the court, cannot talk of justice from the court.

6.6 Judicial Corruption

Corruption has eaten deep into the fabric of the Judiciary today. According to the retired President of the Court of Appeal Justice Ayo Salami said: "The problem of corruption in the Nigerian Judiciary is real and has eaten deep into the system..."⁸⁸ He emphasised that there were some reports of some Judges and retired Senior Judges who practice as consultants in fixing judgments and alleged that these consultants take money from litigants to give to Judges or intimidate Judges to pervert justice. Late Justice Oputa added that:

The suspicion that Judges are compulsive bribe takers is rooted in our social and political culture which alas is now in delay. Bribery and corruption – these evil and twined fellows have eaten deep very deep into every facet of our social and political environment. He further postulated that: Money, they say is root of all evil. The Bench is definitely not a place to make money. A corrupt Judge is the greatest vermin, the greatest curse ever to afflict any nation.⁸⁹

⁸⁶ Obaseki A. O " Justice in Nigerian Court on Statics case flow management and problems of congestion in Courts"1994 judicial lecture continuing Education for the Judiciary (Lagos) professional Publishers L.td 1994 p 7at 12.

⁸⁷ 1985)2NWLR (P8) 483 contrast *Amadi V NNPC* (2002) 2NWLR pt 674 pg 76, *Mobil V Lapesa* (2001) NWLR pt 715 489.

⁸⁸ Justice Ayo Salami , 'Titled A centenary of Legal practice in Nigeria : 1914-2014 Legacies and lessons for the next

Century'(2014 biannual Law week of the Nigerian Bar Association).

⁸⁹ Unadinekek.C.S," The role of the Judiciary in good governance: Trail and travails "proceeding Law Teachers Conference Jos. 2008.

Ohiorhennuan ⁹⁰ succinctly summarising a US report as follows: officials frequently engage in corrupt practices with impunity and massive, widespread and pervasive corruption affects all levels of government and security forces. There was a widespread perception that Judges were easily bribed and litigants could not rely on the courts to render impartial judgments. Citizens encountered long delays and alleged requests from judicial officials for bribes to expedite cases or obtain favourable rulings.

Soniyi and Ayodele⁹¹ likewise lend credence to the above, following the Economic and Financial Crimes Commission (EFCC) probe of seven Judges cutting across the various strata of the Judiciary in Nigeria, five of the Judges are Federal High Court while the other two are of the Court of Appeal and a former Judge of Lagos State. These are said to have acquired hundreds of millions and indeed billions of naira stashed in local as well as foreign banks. In addition, they own property (buildings, mansions, hotels, high priced cars within and outside Nigeria) which by far exceed their incomes. This has been described as mind boggling corruption in the Judiciary that is supposed to be the last hope of ordinary man.⁹² The judiciary is no longer the last hope optima of the common man but a platform of injustice, inequality, discrimination, nastiness and a place for the highest bidder. It has become the first protection of villain, charlatan and vagabond in power and authority who with disdain flout the law knowing they can always get protection from corrupt Judges. The case of James Ibori former Governor of Delta State comes to bear, who in 2001 embezzled ₦12.6 billion and was discharged and acquitted by Nigerian Court but was found guilty in London. This is pooh-pooh and aberrant for the Nigerian Judiciary. Late Justice Oputa observed that: If you are a Judge and you are corrupt, where do we go from there? Then everything has come to a halt. If the Legislature is corrupt, you go to the Judiciary for redress. If the Executive is corrupt, you go to the Judiciary for remedy. If the Judiciary is corrupt, where do you go from there?

6.7 Executive Interference

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Prof. Ishmael O. “Epistomy of Nigeria’s Economic Malady: its depth and the way out” Unijos Inaugural Lecture series 57(2014) pg 12 – 13.

There remain signs that the Judiciary still suffers from executive recklessness, disobedience to court orders and flouting of the rule of law. All dealt severe blows to the survival of democracy in Nigeria.⁹³ Late Augustine Nnamani in a paper presentation observed thus:

It is clear that the problem of Executive non-compliance with court orders is a real one. The danger to the administration of justice cannot be over-emphasised. The effect of ignoring court orders is of course to undermine the authority and dignity of the court...⁹⁴Re-echoing the above a Lagos High Court Judge once said: If citizens follow government's bad example and refuse to obey court orders, it will not only lead to disruption of justice... but also to chaos, anarchy and ultimate dismemberment of the Federal Republic of Nigeria.⁹⁵

6.8 Cost of Litigation

There is also the issue of cost being awarded especially at the Appellate Courts which surreptitiously adds to the delay in the dispensation of justice. It has been argued that if for instance the Supreme Court raises the cost being awarded, the delay in access may be solved at that level. By awarding unrealistic costs, the Supreme Court encourages frivolous litigation with nuisance value; it leads to an overloaded docket; it adds to the delay and queueing in the court system.⁹⁶

6.9 Ambiguities in Judgments

Judgments are often fraught with ambiguities that render the purport controversial and susceptible to various diverse and sometimes contradictory interpretations. Such problem was apparent in *Attorney General of Lagos State v Attorney General of the Federation*.⁹⁷ The case was instituted by Lagos State government when the Federal Government decided to withhold the statutory allocation to its local government. The Federal government premised its decision on the ground that the newly created local governments in Lagos State were done in violation of the Constitution.

⁹⁴ *ibid*

⁹⁵ Onike R. "Roles of the Judiciary in sustain democracy" < [http://search.wap. Com](http://search.wap.Com)>accessed 5 July 2014.

⁹⁶ *Ibid*.

⁹⁷ (2005) 2 WRN 2.

There is need for the Court to be careful and reconcile their views when delivering judgments in important cases.

6.10. Unnecessary Technicalities

There is need for the courts to shun unnecessary technicalities which tend to defeat the cause of justice. It is needful to say that technicalities are part of our legal system and all courts recognise this position. However, where technicalities will be basis of injustice or deny parties substantial justice, they should be jettisoned. The purpose of the law is to achieve justice. According to Joseph Rengkat (Esq.) "Justice cannot get away with technicalities." The spirit of justice does not reside in form and formalities nor in technicalities nor is the triumph of administration of justice to be found in successfully picking one's way between pitfalls of technicalities.

6.11. Ex-parte Applications

The basis of ex-parte application is for situations of real emergency, where it is not possible or a lot of damage might have been done before motion on notice is served. It is expected to last for a few days to preserve the res. This procedure has been abused over time and it is important that the stakeholders in the justice system and Nigerians in general take appropriate steps to nip the matter in the bud. The Supreme Court in *Badejo v Federal Ministry of Education*⁹⁸ expressed optimism that the days of wanton grant of ex-parte injunctions are gone but with what the judiciary witnessed in the last five years, it is clear that something urgent must be done. In recent times, granting of exparte orders is conflicting and done haphazardly.

7. Conclusion and Recommendations

This study has examined the role of the judiciary in the enthronement of a viable democratic culture in Nigeria. The judiciary has demonstrated remarkable commitment to sustaining Nigeria's democratic culture through its interpretative and adjudicatory functions. Through landmark decisions, the courts have upheld the rule of law, protected fundamental rights, and ensured that

⁹⁸ (1996) 8 NWLR 15.

electoral mandates are respected. The judiciary has served as a bulwark against executive and legislative excesses, thereby strengthening the foundations of Nigeria's democracy.

However, the study has also identified significant challenges that continue to undermine judicial efficacy. These include executive interference in judicial processes, corruption within the judicial system, prolonged delays in the administration of justice, inadequate funding and facilities, politicisation of judicial appointments, conflicting judgments from courts of coordinate jurisdiction, and the abuse of procedural mechanisms such as ex-parte applications. These challenges have eroded public confidence in the judiciary as the last hope of the common man.

The independence of the judiciary is the cornerstone of any democratic system. Without judicial independence, there can be no justice, no accountability, and no protection of the rights of minorities and the common man. The future of Nigeria's democracy depends significantly on the ability of the judiciary to overcome these challenges and maintain its integrity, independence, and effectiveness.

Based on the foregoing, the following recommendations are proffered:

a) **Strengthening Judicial Independence:** The independence of the Judiciary must be constitutionally guaranteed and insulated from the whims and caprices of the Executive and Legislature. The tenure of judicial officers should not be left in the hands of the Executive or Legislature. The Constitution should be amended to provide clearer safeguards for judicial independence.

b) **Merit-Based Appointments:** The appointment of Judges should be based on objective and transparent criteria. Men and women of proven integrity should be appointed as Judges. The process of appointment should be transparent and free from political, ethnic or religious considerations. Corrupt judges and judicial officers must be punished for proven wrongs to serve as a deterrent to others. The wicked accepts secret bribes to pervert justice.⁹⁹ Men and women of integrity should be appointed as Judges. People with integrity have firm footing but those who follow crooked paths will slip and fall.¹⁰⁰ It is stated in this maxim “Nuli Vendema Nulli Negabimis Aut Differemus Rectum Vel Justitiam” meaning we will not sell to none, we will deny

⁹⁹ Proverb 17:13.

¹⁰⁰ Proverb 10:9.

to none, we will not delay, ether equity or justice and also in this maxim” Boni Judicus Est Ampliare Justitian” meaning it is the duty of a good Judge to make precedents which amplify Justice. Decisions of the court should be enforced fairly and effectively and the process of appointment of Judges should be transparent. Judges should ensure that judicial proceedings are conducted fairly and that the rights of parties are respected and decision should be solely based on Law and facts without influence of political clout or figure and media. The tenure of judicial officers should not be left in the hands of the whims and caprices of the executive or legislature.

Infrastructure

c) Improved Funding and Facilities: Adequate funding should be provided to the judiciary to enable it to function effectively. Modern facilities and technology should be deployed in our courts to enhance productivity and fast dispensation of justice. The implementation of the decision in *A.G. of Federation v A.G Abia State and Ors* should be reviewed to ensure that the judiciary is adequately funded.

d) Enhanced Accountability: Corrupt judges and judicial officers must be punished for proven wrongs to serve as a deterrent to others. The National Judicial Council should be empowered to effectively discipline erring judicial officers. Income and asset disclosure should be mandatory for all judicial officers.

e) Adoption of Technology: Modern technology should be introduced in our court system to ensure efficiency and fast dispensation of justice. The use of virtual proceedings, electronic filing, and digital case management systems should be encouraged.

f) Case Management Reform: Case management of courts should be improved. Improved strategic planning and administrative capacity of the Supreme Court, Court of Appeal and other courts should be developed. A strategy and timeline to conclude cases should be developed with benchmarks for how long certain cases may last.

g) Training and Mentoring: Necessary training and mentoring for Judges should be provided. Judicial officers should be exposed to continuous professional development programmes to enhance their skills and competencies.

h) Multi-door Courthouse: Multi-door Courthouse should be encouraged. It is a forum that provides for different court-connected alternative methods for the settlement of disputes, giving disputing parties the options of choosing appropriate forums convenient to resolve their disputes.

i) Review of Outdated Laws: Outdated laws should be repealed and amended. The Electoral Act and other relevant statutes should be periodically reviewed to address emerging challenges.

j) Expansion of Jurisdiction: The jurisdiction of other courts should be expanded to reduce the workload on superior courts and ensure speedy dispensation of justice.

k) Rule of Law Adherence: Rule of law should be strictly adhered to. Judges should interpret the laws without fear or favour. Decisions of the court should be enforced fairly and effectively.

l) Financial Incentives: There should be financial incentives for Judges to encourage productivity. Judges should be paid for extra cases to enhance efficiency.

m) Nigerian Bar Association Role: The Nigerian Bar Association should advocate for the improvement of facilities in the courts and hold the government accountable for the welfare of judicial officers.

The future of Nigeria's democratic culture depends significantly on the ability of the judiciary to overcome its challenges and maintain its integrity, independence, and effectiveness. The judiciary must remain the bastion of hope for the common man and the guardian of Nigeria's constitutional democracy.