

Judiciary, Electoral Outcomes and Political Development: The Dilemma of Credible Leadership and Good Governance in Nigeria (1999-2023)

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Abstract

This paper investigates into the complex relationship between the judiciary, electoral outcomes, and political development in contemporary society, focusing on the intricacies of achieving credible leadership and good governance in Nigeria. It critically examines how the interplay between the judiciary and political elites, within the context of Nigeria's adoption of Western democratic models, impacts the nation's political development. The primary aim is (i) To access when the judiciary began to determine electoral outcome in Nigeria's political development, (ii) determine if the judiciary has the capacity to offer remedy for electoral outcome that will foster credible leadership and good governance in Nigeria; and to ascertain if the electoral outcome meets the expectation of freeness and fairness as well as the independency of the Nigerian courts. Employing the theoretical lenses of the Corruption Permissiveness Theory and the Separation of Power Theory, the paper utilizes a descriptive research methodology, drawing extensively on secondary data sources including textbooks, academic journals, newspapers, and online resources. The findings highlight a pervasive corruption issue in all aspects of Nigerian leadership, significantly impeding the realization of credible governance. Consequently, the study emphasizes the urgent need for robust measures to combat corruption in the electoral process, proposing that such efforts are crucial for Nigeria's democratic health. The insights offered by this paper contribute to the broader discourse on governance and democracy and provide a foundation for future research, which could expand, deepen, and broaden the scope of this study. The paper also references several sources for further exploration of these themes.

Keywords: *Judiciary, Electoral Outcome, Credible Leadership and Good Governance*

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Background to the Study

Liberal democracy world over is a welcome phenomenon. The electoral outcomes in the developed and developing democracies, be it extreme left or extreme right all insist on credible democratic process. Nigeria have engaged in rough and uncertainty of sustaining and consolidating electoral democracy since the commencement of the fourth republic, controversial election disputes and violence have increasingly been transferred into the legal arena where pre-election and post-election sentiments manifest, where the courts in the country play crucial, yet contentious role in the electoral outcomes of the nation's political development (Omotola & Owoeye, 2023; Gathii & Ahinkugbe, 2022; Ikuomola & Dagogo, 2021; Adegbite & Oduniyi, 2019; Agwanwo, 2021; Aristotle, Tarabina & Abiddie, 2020; Kerr & Wahman, 2019; Koge, 2017; Kerr, 2013; Aristotle, 2012; Enweremadu, 2009). Over the past couple of decades, Nigeria's political history has been dominated by fraudulent elections, violent political conflicts and military coups. The country's first two attempts at civilian-to-civilian transitional elections (1960-66 and 1979-83) were outlived by successive military coup (Enweremadu, 2009).

All these was predicated on the fact that once elections result was declared and announced by the electoral umpire, defeated political aspirants and parties rushed to refute and denounce the results and the electoral outcome, while manipulating their thugs and supporters to unleash violence and mayhem on their perceived opponents, thus causing civil riots and disturbances to the political system. In situations where such tactics failed as a result of security agency intervention to quell rising insecurity, the aggrieved political parties will then issue a press statement by openly inviting the military to seize power and disband all democratic structures, as a way of punishing their political rivals; on the other hand, once the military took over power it was associated with other unintended consequences like suspension of the nation's legitimate constitution, disbandment of all legislative activities at the national and states assembly, now controlled by the Supreme Military Council (SMC) to make laws and decrees. Also, the judicial arm of government under the military rule was seen to be weakened and unable to handle all forms of human rights violence and abuse emanating from the military operations and activities.

In view of the above, the open profession of the politicians to be committed to the ideas of democracy, elections and political power were perceived to be do-or-die affairs. The practice of resorting to the court of law to resolve electoral outcome and political disputes was thought to be a fruitless venture, especially under the situation were the aggrieved perceived the court to be in favour of the incumbent aspirant and political party. Notably, since the return of democratic rule on May 29th, 1999, some major behavioural shift seems to have occurred among the political elites., while some continued to engage in violence and political thuggery, significant section of others now prefer to use judicial channels to resolve their grievances. It is also worthy to note that, some of these politicians are gradually learning to accept the decisions and electoral outcomes of the courts as final, whether or not it is in their personal advantage.

Furthermore, these radical changes emanate largely from transformations within the judiciary itself that has since 1999, been encouraged by the constitution to play an increasingly assertive role as a courageous and impartial arbiter in the country's political development with regards to democratic politics in general and its electoral disputes in particular. This is in line with the legal framework provided for in electoral adjudication as provided for in Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended); The Electoral Act, 2022; The Electoral Regulations and Guidance; The Election Tribunal and Court Practice Directions (ETCP), 2022; The various Court Civil Procedure Rules; Other Statutes; and Case Law. The first notable evidence of this fact is the increasing number of judicial decisions that have overturned the results of several rigged elections mainly in favour of opposition parties or individuals opposed to the federal government, led by the People Democratic Party (PDP). Similarly, the transformation of the judiciary has also been known by some other judicial pronouncements which restored state governors wrongfully removed from office in the course of disagreement with the federal government or political godfathers (Gathii & Ahinkugbe, 2022; Kerr & Wahman, 2019; Enweremadu, 2009).

Statement of the Problem

Politics entails who gets what, when and how, this indicates that politics seems to be dirty, voracious quest, crammed with indignity and nocturnal affairs. Such political culture which could make or mar good governance, as a result of the activities of judiciary and the political gladiators in the political arena. The adoption of western democracy is further perceived to be a mixed bag of blessing and catastrophes in the body politics of Nigeria (Omotola & Owoeye, 2023; Ikuomola & Dagogo, 2021; Agwanwo, 2021; Aristotle, et al, 2020; Lasswell, 1939). Election has been considered as a strong indicator in democratic governance all over the world. Based on this assumption, Ikuomola & Dagogo (2021), argues that regular free and fair election are central to democratic sustainability in Nigeria as in other parts of the world. In addition, the successes or failures of any liberal democracy is a function of the quality of elections conducted in such a political system at various time. In that, it would provide electorates the opportunity to express their will freely by voting for their preferred candidate and party as outlined in the legitimate constitution of the country. On the other hand, Omotola, (2017), concludes that election constitutes the most crucial ingredient of democracy, because it serves as a strong and veritable global approved criterion to measure the quality of democracy.

The performance and objectivity of the judiciary in election matters in the words of Omotola (2021); Thiankolu (2013) is utterly diminishing because of seemingly cases of miscarriage of justice. Empirical evidence reveals that since the commencement of Nigerian fourth republic in 1999, courts have been inundated by lots of pre- and post-election petitions submitted by aggrieved aspirants and parties who often took their grievances to court rooms to seek legal redress (Omotola & Owoeye, 2023; Enweremadu, 2009; Enabulele, 2008).

The adjudication of electoral disputes has often been marked with controversies. Literatures abound on different roles played by courts in public policy decision making and electoral outcomes. Omotola (2021) and Kerr (2013) highlighted such roles as entrenchment of rule of

law in all its ramifications, clarification and settlement of disputes emanating from electoral controversies. Similarly, scientific evidence has shown that voters in the current dispensation in Nigeria seem to be using court judgement to form opinion on the quality of election and judicial legitimacy in the country, perceived election integrity and acceptance of judicial authority. Munso (2013) maintained that is important for the attainment of democratic consolidation. Literatures on comparative politics such as Kwarteng (2014) has claimed that citizens who perceived the judiciary operates and performs independently of other arms of government and sees election as credible are more likely to vote and participate in democracy (Gathii & Ahinkugbe, 2022; Kerr & Wahman, 2019; Omotola, 2017; Kwarteng, 2014; Enweremadu, 2009).

Moreover, the decreasing level of institutional trust common among unconsolidated democracies such as Nigeria, offers political gladiators with the opportunities to manipulate and negotiate the narrative surrounding elections. A fundamental issue confronting Nigeria's fledgling democracy is that democracy in this part of the world is characterized by a form of 'Super Presidentialism'. This means that the constitution gave enormous power to the executive arm of government, thereby placing the other arms especially the judiciary on a subservient status. Thus, the courts in Nigeria have largely lacked the power of jurisprudence and independence (Omotola & Owoeye, 2023, 215).

The powers of appointing, promoting, and removing judges constitutionally resides with the president at the federal level and governors at the state level in Nigeria. To buttress this assertion, is the unwarranted situation where the Buhari-led administration sudden removal from office a former Chief Justice of the country, Justice Walter Onnoghen on the eve of the 2019 Presidential election by the then incumbent President Muhammadu Buhari. It was debated among various political gladiators, Human Rights groups, and civil society organizations that the removal of a judicial officer of such caliber in an embarrassing and controversial circumstance in an election period was an indication of what was termed to as the judicialization of Nigeria politics, and readiness to manipulate the process. Former President Buhari according to (Odugbemi (2019; Kerr & Wahmann, 2019) was accused of packing courts with loyalists, as this was evident in the appointment of Justice Tanko Muhammad who came as replacement for ousted Justice Walter Onnoghen. Scholars argued that his appointment was to create a safe landing for the incumbent and give credibility to his election, in the case of litigation. This assertion was proven to be right, as the 2019 presidential election was conducted, and the main opposition contestant in person of Alhaji Atiku Abubakar of the People's democratic party (PDP) went to court, armed with proofs with the aid of modern ICT to challenge the outcome of the election, it was decided in favour of the ruling party (Omotola & Owoeye, 2023; Gathii & Ahinkugbe, 2022; Odugbemi, 2019; Kerr & Wahman, 2019; Enweremadu, 2009).

The executive arm of government believes that control over judiciary is of critical importance for their political survival and manipulation. The perceived overbearing influence of executive over the judiciary is not visible at the federal level, but there are recorded cases of such at the state level in the country. This ugly precedence has severely led to voter's apathy in the electoral

process and outcome, and the performance of the judiciary. Monso (2013) pointed out a wide lacuna in the level of trust that supporters of the opposition and government has in courts. In situations where courts regularly rule in favour of the incumbent, except on some cases at the state level. This will most likely be regarded as proof that judges are not separate from the executive. But if they, despite pressure from executive arm of government do act in an autonomous manner, this could improve the trusts in judicial performance among opposition parties as we have in some few cases in Nigeria.

Regrettably, there are controversies over some cases handled by the judiciary, especially in terms of contradictions between pronouncements of the lower and higher courts on similar or identical cases, which in some cases, may not be unconnected with corrupt tendencies. The judiciary equality, ingenuity and independence nature are generally seen as the main thrust for the survival of democracy. The central argument of this study is to establish the role of the judiciary in electoral outcomes and political development leading to credible leadership and good governance.

Research Objectives

The major objective of the study is to establish the role of the judiciary in electoral outcomes and political development leading to credible leadership and good governance in Nigeria. Specifically, the study has threefold objectives aimed to achieve the following:

- i. To access when the judiciary began to determine electoral outcome in Nigeria's political development.
- ii. To determine if the judiciary has the capacity to offer remedy for electoral outcome that will foster credible leadership and good governance in Nigeria.
- iii. To ascertain if the electoral outcome meets the expectation of freeness and fairness as well as the independency of the Nigerian courts.

Epignosis of the Judicial Engagement in Electoral Outcome in Nigeria's Political Development

Historically, the epignosis of the judicial engagement in Nigeria's electoral outcome has been subjected to various debates for and against. Omotola and Owoeye (2023) maintained that, the dependence on the courts and judicial procedures for resolving key moral difficulties, political disagreements, and public policy questions is perhaps one of the most significant trends of the late nineteenth, early twentieth and the twenty-first centuries. National high courts around the world are called on to settle a variety of issues, ranging from the rights of expression and religious liberties, reproductive and privacy freedoms, equality rights, to criminal justice, education, labor, and environmental protection regulations (Omotola & Owoeye, 2023, 213).

The growing political prominence of courts has expanded its reach to become a multidimensional phenomenon that extends far beyond the already "standard" concept of judge-made policymaking capacity. The judiciary interventionist stands in the electoral process and outcome as rightly observed has turned out to be a global issue. In the influential study on the roles of institutions, specifically the judiciary in electoral disputes in Kenya;

Omotola (2021) aptly highlighted the need for the existence of and conflicts resolution drive as an integral part of a free and fair electoral outcome. It means the courts are instituted in this regard for pre- and post-elections disputes and administer justices accordingly. In a similar vein Omotola & Owoeye (2023), Izzi (2019) chronicled issues surrounding 'conflicts and contestations' in the electoral politics of Botswana, despite the enduring and maturing nature of the country's democracy achieved through a transparent and fair electoral system, there are cases where losers in electoral contest approached the courts to seek redress and contested electoral outcomes, at the peril of democratic sustainability and consolidation.

Moreover, substantial judicial intervention in Nigeria politics began in the country first attempt with Presidential election in 1979 (Omotola & Owoeye, 2023; Gathii & Akinkugbe, 2022; Omotola, 2021; Izzi, 2019). After that engagement, it has become a trend in the country's political space right from the second republic all through to the current fourth republic, which started on May 29, 1999. The development of courts serving as a determining factor in elections does not really mix well with the spirit of consolidated democracy as contended by scholars like Suberu, (2013). Sustainable and consolidated democracy is characterized by the ability and maturity of all contending parties in electoral contest to accept the outcome of elections hook line and sinker. A cursory assessment of Nigeria democracy that was 24 years old on May 29, 2023, which saw the emergence of President Bola Ahmed Tinubu, is indicative of the fact that the journey to a consolidated democracy seems to be a far cry for the country, if to be measured by incidences of rejection of electoral process and outcomes by political gladiators.

In the nutshell, Nigeria under the fourth republic which is the longest democratic experience in her history, as conducted seven general elections. These includes 1999, 2003, 2007, 2011, 2015, 2019 and 2023 for the offices of the president, governors, national assembly (Senate and House of Representatives), and state houses of assembly respectively with high recorded incidence of pre and post-election litigations. To juxtapose this assertion, the Human Rights Watch (2008) revealed that most of the presidential elections conducted in Nigeria since fourth republic ended up in the court, up until the last one held in 2023, where the opposition parties People Democratic Party (PDP) and Labour Party (LP) challenged the purported irregularities of the election up to the Supreme Court which end up upholding the victory of the incumbent APC led- political party. Therefore, the stability and survival of democracy is a function of the fairness and transparency in the process and actual outcome of election, conducted and managed by unbiased, objective institutions of government, such as judiciary; which must be independent from the control of the executive arm of government.

Overview of the Role Judiciary Played in the Pre-1999 Election Era

Scholars believed that the stability and quality of a democratic constitution is often determined by the degree of importance a society attaches to the judiciary and the powers it gives to it ((Enweremadu, 2009). As this can be measured in several ways. The first is whether the judiciary is independent, that is, if it is not beholden to any special interest or to either of the other two arms of government (executive and legislature). As Davies in Enweremadu, (2009) points out, the independence of the judiciary is desirable in any organized society that

cherishes the idea of the rule of law and human freedom and, in order to ensure this, the appointment, promotion and dismissal of judges are usually placed in the hands of a neutral body such as a national judicial commission whose members are paid through a special fund. The competence and integrity of the Bench is the second, Judges must be competent, learned and of high integrity in order to command universal respect and approval. Third, is the availability of adequate facilities and personnel, that is, whether there are sufficient judges and courts to meet the needs and demands of the public (Davies 1990).

Evidence abound that before 1999 Nigeria's judiciary was not defined by any of these factors. While a detailed analysis of the character and operations of the judiciary before 1999 is beyond the reach of this era, the point can still be made that the Nigerian bench before that time was beset by a number of challenges. One of the key challenges was the lack of independence arising from the judiciary being tied to the apron strings of the executive arm of government, which, by a variety of means, including the process of selecting judges (appointments, promotion and conditions of service) and the deft use of pliable judges to execute unpopular agendas, made the judiciary more or less the government's rubber stamp (Oko, 2005, 2002; Otteh 2004; Nwabueze 1992). A second problem was the credible evidence of widespread sectional bias and corruption within the bench (Federal Republic of Nigeria 2003; 1994). These shortcomings, and many others, notably the issue of inadequate judges and the inability to deliver judgements in good time, encouraged potential litigants to seek out extra-constitutional means of securing justice (Enweremadu, 2009). For example, during the first (1960-1966) and second (1979-1983) republics several appeals or election petitions brought before Nigerian courts by aggrieved political aspirants ended in controversial decisions. and these helped to stoke political violence and, ultimately, bloody military interventions. Under this arrangement the capacity of the judiciary to mediate in conflicts, especially election disputes and, by so doing, to help maintain democratic stability, was increasingly undermined.

The Transformation of the Judiciary and the 1999 Transition

After Nigeria completed her transition from military to civil democratic rule in May 1999 its judiciary became enmeshed in a gigantic corruption scandal which culminated in the sacking of several senior judges. Records has it that between 1999 and 2004 alone at least five senior judges were dismissed for corruption and abuse of power, following investigations by the National Judicial Council (NJC). The increasing level of corruption among Nigerian judges, including judges of superior courts who were thought to be relatively immune from graft, immediately became an issue of national concern. Nevertheless, these developments could not obscure the improving level of independence and integrity of Nigerian courts and judges, which had suffered greatly under the country's preceding military regimes (Gathii & Ahinkugbe, 2022; Odugbemi, 2019, Enweremadu, 2009, Oko, 2005, Otteh 2004, Nwabueze 1992).

One can reason that many of the sanctions (suspension and dismissal) applied against corrupt judges since 1999 had been the result of specific reform initiatives which have converged to take the judiciary from its position of relative political obscurity at the beginning of 1999 to

one of national prominence by the end of 2009. Three of these reform initiatives are worthy of more detailed mention. The first relates to some unique provisions introduced by the 1999 Constitution, especially those providing for the establishment of two independent regulatory institutions, the NJC and the Federal Judicial Service Commission (FJSC). Chapters 20(a) and 21(a) of the Third Schedule of the Constitution empower the NJC to investigate judges accused of wrongdoing and recommend appropriate sanctions to the president and commander-in-chief of the state governors in the case of a judge of a state court. This body was also charged with recommending judges for appointment and promotion and enforcing the procedures laid down for judges, especially the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria. Similarly, judges are to be appointed by the president, not only subject to Senate confirmation but also on the basis of the recommendation of the NJC, which, itself, receives advice or nominations from the FJSC. According to Section 158(1) 'the National Judicial Council shall not be subject to the discretion or control of any other authority or person' (Federal Republic of Nigeria 1999). The FJSC, on the other hand, oversees the general welfare of members of the judiciary. In order to guarantee their independence, the composition of both bodies is largely independent of the executive and legislative arms of government. Thus, both institutions are headed by the chief justice of Nigeria (CJN) and comprise some of the most senior members of the Nigerian Bench and Bar, plus some representation from outside the legal profession.

Arguably, Suberu (2008) observes aptly, despite criticisms that these bodies represent an assault on Nigeria's federal system they have, since 1999, functioned relatively well to promote judicial independence and integrity. The second source of transformation came from the judiciary itself, in form of the personal commitment of successive CJNs, notably Justice Mohammed Uwais, who was the country's chief justice from December 1995 to June 2006. Throughout his tenure Justice Uwais was committed to the idea of judicial integrity and independence. The third factor that enhanced the transformation of the Nigerian judiciary was the unprecedented vigilance and heightened awareness of the public, especially court users (lawyers and their clients), civil society groups, human rights advocates, democracy activists and politicians, particularly those from the opposition parties. These groups have increasingly monitored the activities of judges and have, in many instances, raised the alarm when traces of corrupt practices or abuse of powers were found (Enweremadu, 2009, 120).

The Role of the Judiciary in 2003 General Election

Basically, 2003 general election has heightened tension and there were three reasons for this. The first was that a successful election would represent Nigeria's first civilian-to-civilian transition, potentially leading to the longest period of civilian democratic rule in the country's history. Secondly, successful conduct of the elections, it was thought, would permit Nigeria to sustain and consolidate its rising diplomatic profile and the economic clout made possible by its return to the committee of democratic nations and its soaring oil revenues. Thirdly, and perhaps most importantly, in a decentralized political system victory in the elections, especially the gubernatorial elections, held the possibility of increased access to massive financial resources, especially for would-be governors of the nine oil-rich region of Niger Delta, who were set to profit from the sharp increase in the international price of crude oil and

the decision of the federal government in early 2000 to begin to implement existing constitutional provisions on derivation, requiring the payment of 13 per cent of all oil receipts to oil producing states in relation to their productive capacities. Stormy preparations and a flawed election arrangement for the epic elections of 2003 began several months before voting day in April. In total 64-million voters were registered at about 120 000 polling booths (Enweremadu, 2009; Obassa 2003; Aderibigbe, 2001).

The 2003 elections came with a number of new challenges. Firstly, the number of political aspirants and parties participating meant there was bound to be an extremely high number of post-election petitions. Secondly, unlike the 1999 transitional election supervised by a departing military regime, which, itself, was not a direct participant, almost all the candidates at all levels in the 2003 elections were incumbents running for re-election. The result was that the propensity to engage in electoral fraud would probably be particularly high and the judiciary, especially the judges who were scheduled to hear election petitions, were likely to come under unprecedented pressure to deliver 'politically' correct judicial decisions. Another source of worry was doubts about the capacity of INEC to cope with the political and logistical challenges involved in organizing both federal and state elections. In a bid to dampen tension and ensure a more manageable election INEC decided to stagger the elections. All legislative elections were fixed for 12 April, while presidential and gubernatorial elections were reserved for 19 April. The dates proposed by INEC coincided with the Easter holidays, sparking calls for the elections to be postponed. Indeed, one political party went to court, seeking to compel INEC to postpone the elections. The court ruled that such a postponement would be incompatible with both the Constitution and the 2002 Electoral Act, which stipulated that elections must be held at least 60 days before the expiry of the tenure of elected officials.

Like previous Nigerian elections the 2003 poll was characterized by massive vote-buying, ballot-box stuffing and intimidation of voters. A number of new forms of irregularity emerged. One of these was changing the names of candidates on party lists submitted to INEC in Abuja, replacing them with those of individuals who had neither won primary elections within their political parties nor were known to be candidates. The result was that individuals who had not even stood in the election were declared elected (While all the parties were involved in such acts the PDP led the field. A second challenge arising from the conduct of the 2003 election was the outbreak of potentially destabilizing intra-elite disputes, such as disagreements between some elected officials and their godfathers (ie, financiers) over the modalities for sharing power and, by implication, public resources, as well as the attempts to employ the then fledgling anti-corruption programme as a tool for the elimination of political rivals. (Omotola & Owoye, 2023; Gathii & Akinkugbe, 2022; Omotola, 2021; Ogunsanwo 2006).

Intra-Elite Case: The Judiciary as Mediator in 2003

Case 1:

The Governorship Elections in Anambra State: Governor Chris Ngige vs Peter Obi

The 2023 election in Anambra state was officially won by the ruling PDP, which controlled the

state from 1999 to 2003, under former governor Chiwonke Mbadinuju. The PDP flag-bearer in that election was Chris Ngige. Mbadinuju lost the PDP ticket for re-election in 2003 to Ngige after falling out with his local godfather, Sir Emeka Offor, and the leadership of the party in Abuja. Although the new PDP governor, Chris Ngige, had himself been sponsored by a local godfather, Chris Uba, a multibillionaire businessman with strong links to Abuja. Thus, immediately after his inauguration in May 2003, Ngige, like Mbadinuju, faced several challenges to his position. These challenges initially came from Ngige's self-proclaimed godfather who, vexed by his increasingly independent approach to governance, tried unsuccessfully to kidnap him and force him out of office (Ologbenla 2003). Governor Chris Ngige will face an even more daunting challenge from his closest rival in the governorship race, Peter Obi of the APGA. Obi filed a petition with the Anambra State Elections Petition Tribunals (ASEPT) immediately after the 2003 elections, challenging the purported victory of Chris Ngige. His argument was that he and not Chris Ngige had won the election. While Obi's petition was being considered Ngige's political godfather confessed that he had helped Ngige rig the 2003 governorship election based on a pact between the two former allies. Thus, the fraudulent nature of Chris Ngige's victory was therefore, not to be doubted as his godfather confessed to it. Nor was the tendency towards the criminalization of politics in Anambra State, brought about by the phenomenon of godfathers in Nigerian politics (Enweremadu, 2009; Aderibigbe, 2001).

Case 2:

A Tainted Impeachment: Governor Rashidi Ladoja vs Oyo State House of Assembly

Another defining feature of the Obasanjo presidency (1999-2007) was the constant disagreement between the legislature and the executive at all levels of government, manifesting in several cases of impeachment. As with godfather related conflicts these legislature-executive frictions were usually rooted in the personalization and monetization of politics. The Oyo case, arguably was one of the most controversial, was triggered on 12 January 2006 when the elected governor of Oyo State, Rashidi Ladoja, was impeached by the Oyo State House of Assembly, dominated mainly by legislators from his own PDP, and was immediately replaced with his deputy, Christopher Alao-Akala. Before his impeachment Governor Ladoja was locked in a mortal power struggle with a local power broker and his own godfather, Lamidi Adedibu, who enjoyed the loyalty of most members of the state assembly. Although Ladoja's removal was premised on specific allegations of corruption and abuse of office, in reality, the fight, like that between Ngige and his godfather, Chris Uba, in Anambra State, actually centered on the modalities for sharing public offices and resources, as agreed during a pre-election pact (Omotola 2007).

Case 3:

Governor DSP Alamiyeseigha of Bayelsa State vs the State House of Assembly

Governor DSP Alamiyeseigha of Bayelsa State had been impeached by the Bayelsa State House of Assembly after jumping bail in Britain, where he was facing charges of money laundering – he decided to challenge the move before an Oyo State High Court sitting in the city of Ibadan. After hearing his appeal, the lower court upheld the impeachment, forcing him to file an appeal to the Court of Appeal in Ibadan. On 1 November 2006 the CofA nullified his

impeachment and ordered that he be reinstated immediately. The court held that the impeachment process was illegal and unconstitutional and was therefore null and void. In the opinion of the court the process was faulty on several counts – the legislators had sat in a hotel rather than in the State House of Assembly, the notice of impeachment had been delivered through the newspapers, only about 18 and not 22 legislators had been present, an affidavit of suspension had been unavailable, the time-frame of the process was flawed and the High Court did not have such jurisdiction (Enweremadu, 2009, p.125). Similarly, with regards to the removal Gov. DSP Alamiyeseigha of Bayelsa State, unconfirmed sources close to the former governor in the state asserts that he removal was politically motivated and not necessarily the money laundering case.

Case 4:

The Impeachment by a minority: Governor Joshua Dariye vs Plateau State House of Assembly

The case in Plateau State involved the reinstatement of an elected governor, who was wrongful removed from office midway into his tenure. The matter began on 2 September 2004, when he was arrested in London by agents of the London Metropolitan Police on suspicion of money laundering. On the basis of this and other allegations made against Dariye, the Economic and Financial Crime Commission (EFCC), one of Nigeria's anti-corruption agencies, opened an investigation into the matter. When he was indicted the EFCC began prosecution in a Kaduna High Court but the process was halted when the court ruled that Joshua Dariye, like the other 35 state governors, enjoyed constitutional immunity from arrest and prosecution while still in office. In response, the EFCC decided to turn his file over to the Plateau State House of Assembly, which was constitutionally empowered to impeach the governor. When this move failed (a majority of the 24-member Plateau legislature threw their support behind the governor), many of the Plateau lawmakers were accused of corruption and picked up by the EFCC for questioning. In the confusion that followed the house could not sit for several weeks as it was unable to form a quorum. The state became ungovernable and the parties to the conflict traded accusations and counteraccusations.

Regrettably, in 2006 six members of the Plateau State House of Assembly, prodded by the EFCC, met at an undisclosed location and announced that they had impeached Governor Joshua Dariye, who, at the time, had already gone into hiding for security reasons. This decision was obviously a violation of the constitutional provision on impeachment, which provides that a governor can only be impeached by a two-thirds majority of all assembly members. Yet such a flagrant constitutional breach did not invite any significant response from the presidency, which is well known for its own numerous constitutional violations, and suggesting that the action had a wider political dimension. Indeed, as was the case with the earlier impeachment of Governor Alamiyeseigha (an exercise that was also orchestrated by the EFCC and the federal government), the impeachment of Mr Dariye was widely interpreted as a political move intended to punish a governor who refused to support the 2003 re-election bid of President Olusegun Obasanjo, or allied himself with Obasanjo's arch-rival, Vice-President Atiku Abubakar (Omotola 2007).

The Judiciary and the 2007 Election

Studies revealed that the deluge of electoral petitions that followed the 2007 elections showed that the role of the judiciary as a credible mediator in political disputes will, in the years to come, remain vital. The divisive nature of the 2007 vote is partly explained by the high stakes involved in the election. Unlike the 2003 election the 2007 election was viewed as a landmark, partly because if it was conducted successfully it would mark the first 'civilian to civilian leadership change' (Enweremadu, 2009; Omotola, 2021).

The election was also held amid fears of widespread political instability. According to Omotola (2017) there were three reasons for this apprehension. The first was public awareness of the vast knowledge and repertoire of the techniques of electoral fraud and electoral violence at the disposal of the political class, which have often been used to frustrate the rights of Nigerians to elect their leaders. Secondly was the willingness or capacity of INEC and the security forces to prepare adequately a level playing field for free and fair elections. The third was the growing tensions within the political class, ethno-regional zones and political parties, which have constituted the most important threat to the political stability of the country. All these tensions ultimately combined to produce a highly discredited election.

Case 1:

Ekiti State: Kayode Fayemi vs Segun Oni

Ekiti State is one of the five south-west states won by the PDP in 2003. Again, in the 14 April 2007 governorship election the state was won by the PDP, according to results announced by INEC. This victory, however, proved very controversial. Soon after INEC announced the result the Action Congress (AC) candidate, Kayode Fayemi, who came second on INEC's list, challenged the result before the Ekiti State Elections Petitions Tribunal (ESEPT). There were two main grounds for Fayemi's complaints – that there had been serious irregularities and fraud in 63 wards in ten local government councils and that the election was marred by non-compliance with the Electoral Act (Omotola, 2007). After losing his appeal at the ESEPT Fayemi appealed to the Court of Appeal in Ilorin. In February 2009 the court upheld one of his two major complaints, which was enough to nullify the election of the PDP's Segun Oni. Specifically, the court found that Oni's purported election had failed substantially to comply with the 2006 Electoral Act. The second ground for complain was rejected because the Action Congress candidate failed to prove beyond reasonable doubt his allegation of ballot-box stuffing. Consequently, the court ordered Oni to hand over the leadership of the state immediately to the Speaker of the House of Assembly, Olatunji Odeyemi, while re-runs of the elections in 10 of the 16 local government areas of the state were to be held within 90 days. The reactions of the two protagonists showed their positive perceptions of the judiciary and, in this case, are worth noting.

Case 2:

Ondo State: Mimiko vs Olusegun Agagu

Notably, the 2007 governorship election in Ondo state, similar to those in other states of the federation, featured several political parties and candidates, including the incumbent PDP governor, Olusegun Agagu, who was running for a second term. The first petition against the

result was received on 15 April 2007, 24 hours after the PDP's candidate was announced as winner. The result was eventually challenged by four contestants, the most forceful being the candidate of the relatively unknown Labour Party, Olusegun Mimiko, whose petition resulted in the removal of the PDP governor from office on 22 February 2009 when the Court of Appeal, sitting in Benin, declared Mimiko to be the rightful governor of Ondo State.

In reaching this conclusion the court was merely affirming the judgement of the lower tribunal, which had annulled the disputed poll and declared Mimiko to be the winner. Like others cases, the judgement was greeted with widespread jubilation and celebration. Almost immediately after it was read Akure, the Ondo state capital, erupted in a frenzy of jubilation, with youths taking to the streets in a victory dance along major roads and drinking spots, which had been closed, reopening. Thousands of residents gathered in the streets to celebrate what one described as 'a triumph of the majority over the oppression of the minority.' At the end, the removal of the former Ondo State governor passed without any major political incident, except a well-publicized message from the late former President, Umaru Musa Yar'Adua, congratulating Mimiko and assuring him of the full cooperation of his administration (Omotola, 2007).

Case 3:

Edo State: Adams Oshimole vs Oserheimen Osubor

The gubernatorial election in Edo State was also concluded on 14 April 2007 and the results remained contested several months later, with the Action Congress candidate, Adams Oshimole, a former president of the Nigerian Labour Congress (NLC), challenging the election of Oserheimen Osubor of the PDP. On March 2008 the Edo State Elections Petitions Tribunal upheld Oshimole's petition, thereby invalidating Osubor's election. This decision forced the governor to file an appeal in the Court of Appeal in Benin City, which he lost on 11 November 2008 as reported by The Punch Newspaper of, 13 November 2008. Like other governors who had been removed from office by Nigeria's increasingly assertive judiciary, Professor Osubor left the state house in Benin City within 24 hours, underlining the fact that Nigerian politicians have come to regard the power of the judiciary as a *fait accompli*. The conduct of the opposition in Edo State, even in the face of delayed justice, also needs to be underlined. Throughout the litigation process the parties and its leadership maintained their faith in the capacity of the judiciary to deliver justice without hindrances.

Case 4:

Imo State: Ikedi Ohakim vs Ifeanyi Araraume

As reported by the Guardian Newspaper of March 24th, 2009. The 2007 gubernatorial election in Imo State was won by an opposition candidate, Ikedi Ohakim. Before he emerged as governor Ohakim and his party, the Progressive People's Alliance (PPA) were hardly known to Nigerians outside the state. Ohakim's popularity soared when the hitherto ruling PDP became entangled in an extra-legal and potentially damaging nomination process, for which it was heavily punished by both the courts and the electorates. The PDP's governorship primary was won by Ifeanyi Araraume, a former senator. But soon after the vote the PDP leadership replaced Sen. Araraume with another politician, Charles Ugwu, who had not stood in the

primaries. Contrary to the provisions of the Electoral Act of 2006, the party gave no reason for its decision. Araraume challenged his replacement in the Supreme Court, which declared it invalid, noting that, in the eyes of the law, he remained the authentic candidate. Instead of complying with the ruling the PDP withdrew from the Imo governorship election completely, leaving Araraume running without his party's support. Araraume was roundly defeated by his lesser-known challenger, Ikedi Ohakim. Ohakim's victory was further cemented by subsequent judicial interventions. After he assumed office in 2007 his opponents went to court to challenge the result. The major challenge, ironically, came from Araraume, who pleaded with the court to annul Ohakim's election on the grounds that it had been marred by corrupt practices and violence and that he, rather than Ikedi Ohakim, had won a majority of the votes cast. Similarly, Sen. Araraume also wanted the court to order by-elections in nine local government areas where the alleged elections had, in fact, not taken place, claiming that the results declared for those areas had been fabricated by INEC (The Guardian, 24 March 2009). In the end, the Imo State Elections Petitions Tribunal and the AC ruled that Araraume's petition lacked merit in every respect and that he had failed to prove his case convincingly, putting an end to an apparent plot by the PDP to regain the state through the back door (Enweremadu, 2009).

Case 5:

Rivers State: Chibuike Amaechi vs Celestine Omehia

As reported by (Daily Newspaper, Sun, 11 October, 2007). The gubernatorial election dispute in Rivers State was similar to that in Imo State in that Chibuike Amaechi, the People's Democratic Party (PDP) candidate who won the party primary, was replaced by another candidate, Celestine Omehia, who had not participated in the primary. Again, the party gave no reason for the change, although Amaechi was subsequently indicted for corruption by an administrative panel set up by the federal government. Just as the case of Imo state, Gov. Celestine Omehia went on to contest and win the election for the party, but instead of uniting the party, his victory only served to boost Rotimi Amaechi's determination to demand justice. Therefore, immediately after the gubernatorial election he challenged Omehia's election in court. The grounds for his appeal, not unexpectedly, were that the party had failed to comply with Section 34, sub-section (1) of the Electoral Act 2006, which provides that a political party must give cogent and verifiable reasons for substituting a candidate. The PDP, angered by Rotimi Amaechi's audacity in challenging the authority of 'the party' in court suspended him. Initially Amaechi's substitution was upheld by both the High Court and the Court of Appeal, which declared the substitution lawful. The CofA went further, citing Amaechi's indictment by a federal government administrative panel as a further justification. Nonetheless, this judicial anomaly was subsequently corrected by the Nigerian Supreme Court, which, in a unanimous decision on 25 October 2007, concluded that the PDP had not provided cogent and verifiable reasons for the substitution, as required by law. The court also held that the claim that Amaechi had been indicted by a federal government administrative panel was untenable because 'there is no indictment known to the law against the appellant, no court of law has pronounced the appellant guilty of any criminal offences as to justify his unlawful exclusion from the election'. Based on this, the court ordered that Celestine Omehia immediately vacate office and Amaechi be sworn in as the rightful governor of Rivers State.

Case 6:***Anambra State: Peter Obi vs Andy Uba and INEC.***

Again, as reported by The Guardian Newspaper, 15 June 2007. The 2007 gubernatorial elections took place simultaneously in all 36 states of the federation, including Anambra State, where Peter Obi had become governor in March 2006 after successfully challenging the election of Chris Ngige, wrongfully declared by INEC to be the winner of the April 2003 governorship election. Consequently, Gov. Peter Obi had only been in office for 12 months and, believing his tenure was four years, he had not stood in the 2007 election. The election was won by Andy Uba of the PDP, a former aide and well-known ally of the then-outgoing President, Olusegun Obasanjo. The key questions raised was when Governor Obi could be said to have completed his term as governor. Was it April 2007 or March 2010? Not unexpectedly Obi contended that his term would end in March 2010. Without resolving this constitutional issue satisfactorily INEC went ahead with the governorship polls in Anambra on 14 April 2007. Immediately after the election Obi once again headed to the courts. This time his port of call was the Supreme Court, which he asked to determine whether INEC's decision to organize the election had been correct.

Approaching the court with the matter it was widely supported by a large section of the Nigerian Bench and, indeed, the public, who argued that Obi should have been allowed to remain in office for four years in line with the wishes of the voters and with the law. Some lawyers, such as the well-known democracy and human rights activist, Gani Fawehinmi, argued that the Court of Appeal should be the final court in matters relating to the tenure of a governor and that the Supreme Court should not have entertained Obi's case in the first instance. Although Obi's suit was simply to seek an interpretation of the provisions of the Constitution as it affected his tenure and, strictly speaking, did not challenge the election of any other person – he was not asking for the nullification of the April 2007 election. In the event, the Supreme Court ruled that Obi's tenure should extend to March 2010 and the Anambra State Elections Petition Tribunal nullified Ifeanyi Uba's win, giving vivid expression to an opinion indirectly expressed by the apex court that the holding of an election when the tenure of the occupant of an office has not expired was 'an action in error' (Enweremadu, 2009; Omotola, 2007).

The Judiciary and the 2011 Election

In 2011, there were two major petitions filed before the Presidential Election Court (PEC) that held in the Court of Appeal, Abuja judicial division. The first was the petition of the Hope Democratic Party (HDP) against President Goodluck Ebele Jonathan and others. However, the said petition was later withdrawn by the petitioners on the 27th May, 2011. But on the 27th June, 2011, the petitioner filed a motion to relist the case. The Court of Appeal while dismissing the application maintained that it was an abuse of court process for the petitioners to attempt to relist the action after it was withdrawn at first instance. After the dismissal. The Court of Appeal was left with just one petition involving Muhammadu Buhari of the Congress for Progressive Change (CPC) versus INEC. The CPC petition was on the ground that the People's Democratic Party (PDP) candidate, Goodluck Jonathan was not duly elected in states such as Kaduna, Sokoto, Nassarawa, Kwara, Adamawa, Abia, Akwa Ibom, Enugu,

Cross River, Ebonyi, Rivers, Bayelsa, Delta, Imo, Anambra, Benue, Lagos, Plateau and the Federal Capital Territory, Abuja of which the PEC dismissed and upheld the election of Goodluck Jonathan as duly-elected President of the Federal Republic of Nigeria (Onyekpere, 2012). This was the best judicial decision in electoral outcome so far in the history of the country.

The Judiciary and the 2019 Presidential Election

Scholars maintained that the presidential elections in Nigeria is often characterized with contradictions, dynamisms and at times sentiments. Since the return of the country back to democracy in 1999, six presidential elections have held. Available evidences reveal that most of the election within the period as resulted in serious and stiff litigations (Omotola & Owoeye, 2023; Gathii & Akinkugbe, 2022; Omotola, 2021). The problematic nature of the 1999 constitution has made the context for the highest office in the land to be highly enticing, competitive and complex. The constitution of Nigeria in the words of Munso (2013) gave enormous powers/functions to the office of the president that has made some contestants to believe that any route taken in getting there is irrelevant, but the available perks in that office is of great importance. It means that majority of them have submitted themselves to the 'Machiavellian' maxim "the ends justifies the means in the political arena". The 2019 presidential election in Nigeria was conducted on Saturday, 23th February, 2019 in 1558 constituencies and 774 local government areas, across the 36 states of the federation.

According to Omotola (2021), aptly captures the post- election, actual election issues of 2019 presidential election, when he submitted that a total of 91 approved political parties partook of the election that was conducted across 119,973 poling units. The election was contested by 73 candidates, with a total of about 84,004,084 as registered voters. Two notable candidates and political parties stood out in the election in terms of representativeness and number of votes gotten. They are; All Progressive Congress (APC), led by the incumbent President Muhammadu Buhari which is the ruling party, and the main opposition party Peoples Democratic Party (PDP) led by Alhaji Atiku Abubakar.

According to local and foreign election observers such as the Centre for Democracy and Development (CDD) and, Policy and Legal Advocacy Centre (PLAC) the election was characterized with obvious anomalies that ranges from ward cancellation of votes occasioned by violence, logistical challenges, and misconduct. Riding on the strength of the irregularities in the conduct of the presidential election, the People's Democratic Party flag bearer, Atiku Abubakar submitted his petition challenging the declaration of President Muhammadu Buhari as winner of the 2019 presidential election (The Premium Times Newspaper, 23, March, 2019). The PDP and its presidential candidate, Atiku Abubakar, brought together a team of seasoned lawyers to challenge the outcome at the Court of Appeal. The Court approved the PDP application to be allowed access to materials used for the election. The Court however, blocked the party's move to have the presidential election materials forensically examined. Based on this premise that the Supreme Court finally uphold the election result in favour of the sitting president, judicial decision that was greeted with serious dissatisfaction and suspicion especially among the opposition elements based on the

evidences presented in court (Omotola & Owoeye, 2023). Similarly, in the notorious case of the 2019 Imo state gubernatorial election in which the supreme court annulled the victory of PDP candidate Emeka Ihedioha, and installed APC candidate Hope Uzodinma who came fourth position to Emeka Ihedioha. Same happened to Adeleke of Osun state and David Lyon of Bayelsa state APC candidate whose victory was annulled on the account that his deputy Sen. Degi presented fake document, thereby installing Se. Douye Diri of the PDP.

The Role of Judiciary and the 2023 Election

On the role of the judiciary and the 2023 election, Toyin Falola, a Professor of History, University of Texas, stated thus: “The court must be able to see that what is more crucial at every point before making its decisions is the importance of legitimacy and popularity. The role of the judiciary in pre and post-election matters will never stop to beg the question of what should be held supreme: legality or legitimacy? Of course, both concepts cross each other's borders semantically, but to what extent should the extremes of each be tolerated... He further stated that three sets of people now decide on our leadership for us namely: the voters, the lawyers and the judges, that democracy is no longer solely on the legitimacy of the voters, but also the legality of how the votes were obtained and counted. That in several instances, a party's candidate would be elected with some presumed or deducible public support, and when the lens or the 'VAR' of the judiciary looks at it, the people's result get dashed, where the supposed winner could be the one who doesn't have the peoples approval, and after much process or vetting, the judiciary installs who it want or think has fulfilled the law the most, relating to the results of the petition at both the court of appeal and supreme court against the supposed victory of the APC candidate Bola Tinubu at the September 6, 2023 Presidential election where the masses are nowhere near satisfied; as the same history repeat itself as in 2019 case between Atiku Abubakar (PDP) versus Muhammadu Buhari (APC) (The Premium Times Newspaper, p.19, October, 2023).

Theoretical Framework

The following theoretical framework was considered in this study (a) Corruption Permissiveness Theory (CPT) and, (b) Separation of Power Theory (SPT)

Corruption Permissiveness Theory (CPT)

This Corruption permissiveness theory (CPT) was coined or propounded by Aristotle Isaac Jacobs in 2020, this theory draw inspiration from the work of Cecilia Lavena, (2013) in her article titled: What determines permissiveness toward corruption? A study of attitudes in Latin America. Its observed that corruption is seen as damaging the public realm, reducing the credibility of institutions and endangering the status of public ethos.

The basic assumptions of corruption permissiveness theory (CPT) holds that social characteristics, office portfolios, cultural values and political beliefs or attitude may affect levels of corruption permissiveness in different ways. In the study of cultural dimensions of corruption, Swamy, Knack, Lee & Azfor, (2001) found that women are less likely to condone bribe taking and possible engaging in corrupt practice than their male counterpart. Most scholars are interested in the role of class structure, sex constructs, age differences and

educational level in increasing or reducing individual willingness to justify corrupt behavior (Aristotle, Tarabina & Abeddie, 2020; Lavena, 2013; Seligan, 2002). Their findings suggest that a generation effect might evidence lower levels of corruption permissiveness. Swamy, et al, (2001) consider that public knowledge of the written codes of conduct and laws reduces levels of corruption permissiveness, as more education is an indicator of being more critical and knowledgeable of the political system and less willing to tolerate corruption. In areas of ethnic diversity, researchers suggest that an ethnic and linguistic difference determines individual levels of corruption permissiveness (Lavena, 2013, 351; Dreher, Kotsogiannis, & McCorriston, 2007, 449). Similarly, when a particular party, ethnic group or religion is in power there's bound to exist some level sub-culture to be permissive to corruption. Deeply divided societies may reflect more demand for corrupt services at any given price, making members of certain ethnic groups feel that demanding favour from co-ethnics in office is the only effective way to obtain service, hence systematically allowing for wrongful behavior.

You and Khagram (2005) study on whether greater levels of inequality are conducive to corruption and from their findings concluded that inequality if income increases corruption through material and normative mechanism since survival is key the issue of judges taking bribe is inevitable. Thus, the wealthy are more likely to believe that corruption is an acceptable way of preserving and advancing their position in society, since such behavior goes unpunished and social networks of corruption expands. In the same manner, Melgar & Rossi (2009, 6) observed that income determines higher levels of permissiveness among citizens of different employment status (class struggle and consciousness). Their study showed that unemployment does not influence willingness to justify an illegal action, but being employed full time decreases the probability of being permissiveness (6).

Inglehart, (2000, 80) in his study on culture and democracy, opined that “culture is path dependent”, demonstrating that “distinctive cultural zones exist” with highly distinct value systems that persistently help to shape important phenomena (p. 80). It's proposed that that there are two key dimensions of cross-cultural variation: traditional/rational –legal and survival/self-expression values. The traditional dimension reflects “the construct between societies in which religion is very important and those in which it is not; emphasis on interpersonal trust; as pro-life stands on abortion, euthanasia, and suicide; social conformity; high level of national pride” (p. 83).

The survival dimension is related to societies reflecting “low levels of subjective wellbeing; low interpersonal trust; relatively intolerant towards out-groups; emphasizing materialist values; favouring authoritarian governments” (Lavena, 2013, p.351; Inglehart, 2000, p.84). The desire for freedom is considered to be a universal human aspiration among cultures moving from survival values to wellbeing and self - expression value. Thus, this shift is expected to be reflected in the levels of corruption permissiveness; citizens who feels they are free to choose their own destiny and control their own lives will be more prone to be bribed and manipulated.

Separation of Power Theory (SPT)

The Separation of Power Theory (SPT) was propounded by French Philosopher Baron Montesquieu in 1748. In the work of (Fairlie, 1923) he noted that, Montesquieu categorized the powers of government into three different units namely: the executive, judiciary and legislative arm of government. Thus, the separation of the various powers of government was highly essential to civil liberty because there can be no liberty if executive power is not separate from the legislative and that of the judiciary (Fairlie, 1923). If the powers are not well separated, the life and liberty of the subjects would be exposed to arbitrary control, abuse and manipulations. The constitution of the United States of America for instance, recognizes the importance of this separation of powers. Where it was stated that, the executive power is vested in a President, legislative power vested in a congress, and judicial power in one supreme court.

Similarly, Oni (2020) noted that there is a total or resemblance of separation of power in every human society, such as the pre-colonial and colonial era of Nigeria. It is crucial to note that the separation of power is central to every country practicing democracy in the world. Therefore, in order to prevent all forms of tyranny and overstepping of political authority within the political system, proffering clarification on this is a must. Bradley and Ewing (2011) avers that the executive i.e., ministers must not perform the functions of the legislature, while executive should not interfere in judicial decision, and the judicial powers and functions should be separated from the executive, to avoid abuse of power. It is argued that uniting power and functions of government in one man or one arm could trigger corruption, manipulation, and high handedness in the state.

In Nigeria, scholars such as (Oni, 2020; Kalu, 2018) maintained that partisanship have taken over Nigeria's electoral politics at all levels. In that, judicial arm has become extension of and tool for manipulation in the hand of the executive arm of government. The incumbent or ruling parties have succeeded to maneuver government institutions to serve partisan interests at electioneering seasons. Nevertheless, since separation of power and rule of law are the oxygen of a liberal democracy, if there is no clear demarcation/ separation of powers and functions among the three arms of government, then democracy would be in danger (Omotola & Owoeye, 2023, 217). According to related studies on this, the structure of the judiciary in terms of its composition, appointment of judges, and finance can inadvertently affect the independence of that important branch of government (Omotola, Owoeye, 2023; Gathii & Akinkugbe, 2022; Adegbite & Oduniyi, 2019; Diamond, 1987). Political partisanship and ideology of the executive, which has the authority to appoint judges, undermine judicial independence in this situation. This singular controlling and domineering practice typically render the judiciary arm highly susceptible to partisan manipulation.

Omotola (2021) and Diamond (1987) asserted in his study of the issues in the constitutional design of Nigeria's Third Republic that Nigeria's judiciary arm of government is weak and lacks independence, and thus frequently succumbs to political pressures. Comparatively, a Supreme Court Justice was sacked in Kenya because of his ruling on presidential election petition of 2017 that saw to the removal of an incumbent president, a similar scenario played out in 2020 in the country of Malawi (Gathii & Akinkugbe, 2022).

The deterioration of judicial independence exposes judges to undue pressure, interference and manipulation; suffice it to say that a judge whose decisions are influenced by politics jeopardizes judicial independence (Oni, 2020; Kalu, 2018). The true perpetrators of the attempt to weaken judicial independence are the political elites, who may never willingly work for its restoration, as evidenced by the weakening effects of their activities on the democratization process. In a similar manner, in his assessment of politicians' attitudes toward the judiciary, Nwabueze (1985) stated that "politicians in Nigeria are strongly inclined and prepared to use pressure of various kinds to try to influence in their favor the judges' decision ranging from blackmailing, lobbying to intimidation to outright bribery". Therefore, this separation of power theory is suitable to this study, because apart from contributing to knowledge on electoral outcomes and judicial politics, it has the prospects of explicating the susceptibility of judiciary to be manipulations especially during election petitions and rulings in Nigeria and other fiddling democracies across the world.

Methods

The descriptive research method is adopted in this study with the central method of data collection being library research. Data were collected from various secondary sources such as articles in journals, textbooks, newspapers and internet publications among others. The information gathered from these secondary sources were analyzed using thematic method as relevant data were clustered under themes that are relevant, related and connected to the objectives of the study.

Conclusion/Recommendations

In conclusion, one of the basic requirements for the survival and prosperity of a liberal democratic state is the presence of strong and independent oversight institutions, one of which is the judiciary. Therefore, competent and independent judiciaries are, in many ways, central to democracy; as good judiciary will not only check the abuse of power by executive and legislative arms government. It will also be capable of managing the intra-elite disputes and/or conflicts which are bound to result from the competition for power and economic resources involved in party politics in a multiethnic society such as Nigeria. (Omotola & Owoeye, 2023; Suberu 2001). Many of Nigeria's democratic failings in the past couple of decades have been the result of the inability to construct an impartial and honest judiciary that commands the respect and confidence of most of the members of its fractious political class and its deeply divided population (Oko, 2022; Omotola, 2021). From 1999, when Nigeria moved from a military autocracy to a multiparty democracy, some carefully crafted legal and administrative tinkering has transformed its judiciary from an extension of the executive into an impartial and credible arbiter of political disputes. With the happenings of 2019 and 2013 general election in Nigeria with the associated judiciary roles in electoral outcomes it is clear that, while the Nigerian judiciary has not succeeded in introducing a culture of free and fair elections or solved the problem of judicial corruption, or even enthroned a flawless framework for electoral justice, it has undergone a major transformation, becoming a reliable partner in Nigeria's historic struggle for a fairer electoral process.

The study therefore recommends the following:

- (i) The need for strict submission to the doctrine of separation of power which will enhance the independence of the judiciary
- (ii) The need for financial independence of the court; poor funding of the judicial arm subjects them to possible financial inducement
- (iii) The need for supreme and high court judges to eschew ethnic, party and religious affiliation which have limited the capacity of courts to offer remedies when election fail to live up to standard of freeness and fairness
- (iv) The need for anti-graft agencies with proven evidence to arrest and detain corrupt judges.

Contribution to Knowledge

The contribution to knowledge in this study lies on the ability of the researchers to succinctly establish the role of the judiciary in electoral outcomes and political development leading to credible leadership and good governance in Nigeria. Secondly, this study further contributes to the advancement of the corruption permissiveness theory, which posits that social characteristics, office portfolios, cultural values and political beliefs or attitude may affect levels of corruption permissiveness in different ways. Lastly, the study critically accessed the role of the Nigerian judiciary in electoral outcome and political development leading to credible leadership and good governance from pre-1999-2023 general elections.

References

- Adegbite, O. B., & Oduniyi, O. O. (2019). The doctrine of separation of powers and the illusion of separateness: Core legal dilemmas under Nigeria's constitutional democracy, *Journal of Law and Judicial System*, 2(1), 26-37.
- Aderibigbe, Y. (2001). 'Political associations raise stakes for 2003 polls, *The Guardian*, 12 January.
- Agwanwo, D. E. (2021). *Deviant behaviour: A social institution perspective*, Pearl Publishers International Ltd.
- Aristotle, I. J., Tarabina, V. P., & Abiddie, K. V. (2020). Corruption, political party system and Nigerian democracy: An historical analysis from 1960-2019, *International Journal of Trend in Scientific Research and Development (IJTSRD)*, 5(1), 983-992.
- Aristotle, I. J. (2012). *Corruption and the consolidation of Nigeria's democracy: Trends, problems and prospects*, Kadmon Printing Press.
- Bradley, A. W., & Ewing, K. D. (2011). *Constitutional & administrative law (15th edition)*, Pearson Publishers.
- Davies, E. A. (1990). The independence of the judiciary in Nigeria: Problems and prospects, *African Study Monograph*, 10(3), 11-23.

- Diamond, L. (1987). Issues in the constitutional design of a third Nigerian republic, *African Affairs*, 8(6)34-56.
- Dreher, A., Kotsogiannis, C., & McCorrison, S. (2007). Corruption around the world: Evidence from a structural model, *Journal of Comparative Economics (JCE)*, 35. 443-466.
- Enabulele, A. A. (2008). Disqualification of election candidates in Nigeria: Some reflections, *Commonwealth Law Bulletin*, 34, (3), 561.
- Falola, T. (2023). Nigerian elections: A democracy in the hands of the judiciary, *Premium Times Newspaper*. October 2, 2023.
- Fairlie, J. A. (1923). The separation of power, *Michigan Law Review*, 2(1), 24-39.
- Gathii, J. T., & Akinkugbe, O. D. (2022). *Judicialization of election disputes in Africa's international courts*, Duke University School of Law, Durham
- Enweremadu, D. U. (2009). The judiciary and the survival of democracy in Nigeria: Analysis of the 2003 and 2007 elections, *Journal of African Elections*, 10(1), 114-142.
- Ikuomola, A. D., & Dagogo, D. F. (2021). *Political deviance. In D. E. Agwanwo (eds). Deviant behaviour: A social institution perspective*, Pearl Publishers International Ltd.
- Inglehart, R. F., & Welzel, C. (2005). *Modernization, cultural change, and democracy: The human development sequences*, Cambridge University Press.
- Izzi, M. O. (2019). *The role of judiciary in Nigeria electoral system, reproductive right and population control in Nigeria: Law and sustainable perspective*. Pearl publishers.
- Kalu, C (2018). Separation of powers in Nigeria: An anatomy of power convergences and divergences, *African Journals*, 9 (1), 154-163.
- Koge, E. S. (2017). *Managing election dispute in Africa: An analysis of Ghana and Kenya. (Unpublished M.sc Dissertation)*. University of Ghana, Legon.
- Kerr, N., & Wahman, M. (2019). Electoral rulings and public trust in African courts and elections, *Journal of Comparative Politics*, 53(2), 9-22.
- Kerr, N. (2013). Popular evaluations of election quality in Africa: Evidence from Nigeria, *Journal of Electoral Studies*, 3(1), 89-99.
- Kwarteng, C. (2014). Swords into ploughshares: The judicial challenge of Ghana's 2012 election results, *The Round Table*, 5(2), 83-93.

- Lasswell, H. D. (1936). *Politics: Who gets what, when and how?* Whittlesey House.
- Lavena, C. (2013). What determines permissiveness toward corruption? A study of attitudes in Latin America, *Public Integrity, Fall 2013*, 15(4), 345-365.
- Melgar, N., & Rossi, M. (2009). *Permissiveness toward illegal. actions in Uruguay are belief in God, income and education relevant?* 10, Department of Economics, Universidad de la Republica.
- Monso, J. (2013). Judicial politics: Election petitions and electoral fraud in Uganda, *Journal of Eastern African Studies*, 2(1), 221-134.
- Nwabueze, O. B. (1992). *Military rule and constitutionalism*, Spectrum Law Publishing.
- Obassa, S. (2003). Civilian to civilian transfer: The Journal so far, *New Nigeria Weekly*, Lagos, 19 April.
- Odugbemi, G. (2019). *The recent suspension of the chief justice of Nigeria: Reports and legal discourse*, <http://dx.doi.org/10.2139/ssrn.332469>.
- Ogunsanwo, A. (2006). 'Keynote Address'. In F. A. D. Oyekanmi, & O. Soyombo (eds). *Society and governance: The quest for legitimacy in Nigeria*. Irede Printers Ltd.
- Oko, O. (2002). Subverting the scourge of corruption in Nigeria: A reform prospectus, *Journal of International Law and Politics* 3(2), 24-56.
- Ologbenla, D. (2003). Political instability, conflict and the 2003 general elections. In R. Anifowose, & T. Babawale (eds), *General elections and democratic consolidation in Nigeria*. Frankad Publishers.
- Omotola, J. S. (2007). 'Democracy and constitutionalism in Nigeria under the fourth republic, 1999-2007, *Africana: A Journal of Ideas on Africa and the African Diaspora* 2(2), 10-17.
- Omotola, J. S., & Owoye, G. (2023). Judicialization of electoral outcomes in Nigeria: Case of 2019 presidential election, *Baltic Journal of Law and Politics*, 16(1), 212-222.
- Omotola, J. S. (2021). *The troubled trinity: Election, democracy and development in Nigeria*, An Inaugural Lecture. University of Oye-Eketi.
- Onyekpere, E. (2012). *The judiciary and Nigeria's 2011 election*, Centre for Social Justice (CSJ). <http://csj-blog.org>.
- Otteh, C. J. (2004). Restoring the Nigerian judiciary to its pride of place, *The Guardian Newspaper*, 13 April.

- Seligson, M. A. (2002). The impact of corruption on regime legitimacy: A corruptive study of four Latin American countries. *Journal of Politics.*, 64., 408-433.
- Suberu, R. (2008). 'The supreme court and federalism in Nigeria, *Journal of Modern African Studies*, 46(3), 87-95.
- Swamy, A., Knack, S., Lee, Y., & Azfor, O. (2001). Gender and corruption, *Journal of Development Economics.*,64, 25-55.
- Thiankolu, B. (2013). *Handbook on election disputes in Kenya: Context, legal framework, institutions and jurisprudence*, GIZ Printing Press.
- Uzodike, N. O., & Onapajo, H. (2014). Rigging through the courts: The judiciary and electoral fraud in Nigeria. *Journal of African Election*, 13(2), 137-168.
- You, S., & Khagram, S. (2005). A comparative study of inequality and corruption, *American Sociological Review*, 70(1), 136-157.