INDEPENDENCE OF THE JUDICIARY AND ITS EFFECTS ON ADJUDICATION OF ELECTORAL DISPUTES IN NIGERIA SINCE 1999*

Abstract
The independence of the judiciary and its effects on judicial adjudication of electoral disputes in Nigeria since 1999 has not been satisfactory. Nigeria as a country has a chequered history of judicial adjudication of electoral disputes. This study considered the independence of the Judiciary and its effect on judicial adjudication of electoral disputes in Nigeria since 1999. The study identified the legal framework that provided for the independence of the judiciary in Nigeria since 1999. The study also identified and analyzed the problems and impediments militating against the independence of the judiciary in Nigeria since 1999. The study further identified and analyzed how the independence of the judiciary in Nigeria has affected and impacted on judicial adjudication of electoral disputes in Nigeria since 1999. The study adopted the doctrinal method of legal research by examining and analyzing constitutions, statutes, books, opinion of authors, journals, dictionaries, conference papers, dailies, periodicals, websites etc and also drew inference from some selected reported election petition cases since 1999 to buttress the effect of independence of the judiciary on judicial adjudication of electoral disputes in Nigeria. The study concluded and recommended that there is the need to ensure unhindered independence to the judiciary in Nigeria. The legal framework should be amended to provide full autonomy/administrative independence to the judiciary in Nigeria, the procedure for appointment of Judges should be reviewed, there should be judicial activism on the bench and provision of modern ICT tools for optimal performance of the judiciary in judicial adjudication of electoral disputes in Nigeria.

Keywords: independence, judiciary, judicial, adjudication, electoral and dispute.

1. Introduction

Historically, the concept of independence of judiciary in any society has foundation in the principle of separation of powers and rule of law in the government of any democratic nation. Separation of powers envisaged a situation in government where those that run the legislative, executive and judicial powers of state are different and exercise their functions and powers without interference from other branches of government. The concept of separation powers was propounded by Philosophers such as John Locke and the French Montesquieu. John Locke opined that legislative and executive powers should be conferred on different organs, in order that the sovereign should not abuse his authority. Montesquieu, in essence based his concept of controlling governmental powers by separation of powers into tripartite organ of government in the English constitution. The guarantee against abuse lies in establishing mutual checks between the legislative, executive and judicial functions.[1] There is no doubt that separation of powers is one of the basic concepts of independence of judiciary. In Nigeria, the three branches or organs of government are manned or constituted by different persons and the Constitution[2] assigned to the different branches of government distinctive roles and responsibilities. The Supreme Court gave this concept judicial blessing in the case of *APC v Enugu State Ind. Elect.com*[3] when it held that the constitution of the federal republic of Nigeria, 1999 as amended has provided for three distinct branches of government: (i) the Legislature; (ii) the Executive; and (iii) the Judiciary. In democratic system of government, the three arms of government are the foundation of governance. There is the need to have a strong and independent judiciary for the sustenance of governance.

The concept of the rule of law connotes the supremacy of law over rule of individual. The concept has a long history; however it was made popular by professor A. V. Dicey who ascribed three different interpretations to the concept of rule of law.[4] The first interpretation is that rule of law means the absolute supremacy of regular law as opposed to influence of arbitrary power.[5] This concept of rule of law has been applied over the years to mean that citizens and everybody are subject to the Law and not to the whims and caprices of the executive or those running the government. Citizen or everybody subject to the law can only be punished for breach of the law and cannot be punished for anything that is not provided in the law. The rule of law is against arbitrariness in executive or governmental actions. The second meaning ascribed to the rule of law is that all persons are subject to the law of the land. It means all persons are equally subjected to ordinary law of the land, administered by ordinary law courts.[6] The third meaning ascribed to the rule of law by Professor A. V. Dicey is that the rule of law connotes the entrenchment of fundamental human rights and this has led to international acceptance in many written constitutions in the world.[7]

2. Conceptual Clarifications

There are six key technical terms or concepts that should be defined to enable us appreciate the title of this paper. They are independence, judiciary, judicial, adjudication, electoral and disputes.

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[1] N.A. Inegbedion and J. O. Odion, *Constitutional Law in Nigeria*, (2nd Edn, Ambik Press, Benin City), pp 49 - 50
[2] See Section 4, 5 and 6 of the Constitution of Federal Republic of Nigeria, 1999 (as amended)
[3] (2023) EJSC (Vol.190) 104 AT 158
[4] A. V Dicey, *The Law of Constitution* (London 1909)
[5] D. O Aihie, *Selected Essays on Nigerian Constitutional Law* (Idodo Umeh Ltd, Benin City, 1985) pp 18-26
[6] D. O. Aihie (Supra)
[7] N. A Inegbedion and J. O. Odion, *Constitutional Law in Nigeria* (2nd Edn, Ambik press, Benin City, 2011) P. 97; see for example Chapter IV of Constitution of Federal Republic of Nigeria, 1999 (as amended)

Independence: Independence has been defined as the quality or state of being independent, while independent is defined as free from the authority, control or influence of others, self-governing.[8] This definition is a good working tool for our paper. It raises the questions, is the judiciary in Nigeria free from authority, control or influence of others and is the judiciary self-governing? This study intends to find answers to the questions and more in due course.

Judiciary: Judiciary has been described as the apparatus of law and its administrators, the judicial branch of government.[9] The judiciary is one of three arms of government. In Nigeria and United States of America,[10] the judiciary is created by the constitution. The judiciary no doubt is the branch of government responsible for interpretation of the laws and adjudication[11] of disputes between persons, government or authority and any person, whether corporate or natural persons. The judicial power of the judiciary to adjudicate on any dispute include the adjudication of electoral disputes in Nigeria. The judiciary is also responsible for judicial review. It has the power to review the actions of other branches or levels of government especially the courts power to invalidate legislative and executive actions as being unconstitutional.

Judicial: - Judicial has been defined as the administration of justice or of acts, places, persons or powers associated with it; the use of power and process of critical judgement.[12] The Black law dictionary defines 'judicial' as relating to or by the court, judicial duty.[13]

Adjudication: - Adjudication is the legal process of resolving a dispute; the process of judicially deciding a case.[14]

Electoral: - Electoral is from the word election. Election is a method of electing or choosing leaders or making decisions by a process of voting.[15] In Section 152 of the Electoral Act, 2022, 'election' is interpreted to mean any election held under this Act and includes a referendum. 'General election' in the same section is interpreted to mean an election held in the federation at large which may be at all levels, and at regular intervals to select officers to serve after the expiration of the full terms of their predecessors. The supreme court has held that an election is a process in which people vote to choose a person or group of people to hold official position.[16] Adekeye JSC put the concept more succinctly when he held that an election means the process of choosing by popular votes a candidate for political office in a democratic system of government.[17] Election has been accepted globally as preferred system of choosing leaders as against selection or imposition of leaders. There are different types of election. Some identifiable ones are primary election, general election, bye election, runoff election, Presidential and National Assembly election, Gubernatorial and House of Assembly election, Local Government and Ward election, etc.

(a) Primary election: - This is a preliminary election in which a political party's registered voters nominate the candidate who will run in the general election.[18] Electoral disputes that arise out of primary election are known as pre-election matters or disputes. Pre-election disputes have had profound effect on the development of electoral laws and judicial adjudication of electoral disputes in Nigeria[19]
(b) General election: - This is an election that occurs at regular interval of time, an election for all seats as contrasted with a by-election.[19] Section 152 of the Electoral Act, 2022 interpreted 'general election' to mean an election held in the federation at large which may be at all levels, and at regular intervals to select officers to serve after the expiration of the full terms of their predecessors.
(c) Bye-election: -This is an election specially held to fill a vacant post.[20]
(d) Run-off election: - This is an election held after a general election, in which the two candidates who received the most votes-neither of whom received a majority-run against each other so that the winner can be determined.[21]
(e) Presidential and National Assembly election: - This is election to fill vacant seat of the President of Federal Republic of Nigeria and vacant seats in the National Assembly, which is made up of the Senate and the House of Representatives.
(f) Gubernatorial and House of Assembly election: - This is election to fill vacant seat of the Governor of a state and to fill vacant seats of House of Assembly of a State in Nigeria.
(g) The Local Government and Ward election: - This is election to elect the Chairman of a Local Government Council in Nigeria and also to elect a Councilor to represent each Ward in the Local Government Council.

[8] See the *New Webster's Dictionary of the English Language International Edition* (Lexicon publications Inc, New York, 2004) P. 491
[9] Ibid p 530
[10] See Section 6 of Constitution of Federal Republic of Nigeria 1999 (as amended) and Article three of the constitution of the United States of America.
[11] See B. A. Garner (ed), *Black Law Dictionary* (7th Edn, West Group, St. Paul, Minn, 1999) P. 852
[12] See the *New Webster's Dictionary of the English Language International Edition* (Lexicon publications Inc, New York, 2004) P. 530
[13] See B. A. Garner (ed), *Black Law Dictionary* (7th Edn, West Group, St. Paul, Minn, 1999) P. 850
[14] ibid P.851
[15] See the *New Webster's Dictionary of the English Language International Edition* (Supra) P.302
[16] *Ojobo v Moro* (2021) EJSC (Vol. 174) 24 at 41
[17] *Marwa v Nyako* (2012) Vol. 204 LRCN 1 at 105; see also Ojukwu v Obasanjo & ors (2004) vol. 10 M.J.S.C 1 at 50
[18] See for example, *Amaechi v INEC & Ors* (2008) Vol. 158 LRCN 1
[19] B. A. Garner(ed) *Black Law Dictionary* (9th edition) P. 595
[20] Ibid
[21] Ibid

Dispute:- Dispute is a conflict or controversy, especially ones that has given rise to a particular Law Suit.[22] In the case of *AGF v AG of the 36 States*[23] the supreme Court, per Belgore, JSC, while defining dispute held that dispute involves acts of argument, controversy, debate, claims as to rights whether in law or fact, varying opinions, whether passive or violent or any disagreement that can lead to public anxiety or disquiet.

3. Overview of Independence of Judiciary in Nigeria

The judiciary in Nigeria is a creation of the Constitution.[24] It is one of the three arms of the government. The other two arms of government being the legislature and the executive. The judiciary and its powers is clearly created by section 6 of the Constitution of Federal Republic of Nigeria 1999 (as amended). One of the social objectives of the Nigerian federation is that the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.[25] Though the above constitutional provision is contained in Chapter II of the Constitution of Nigeria, 1999 (as amended) however it is not justiciable. Despite these lofty goals as clearly spelt out in Chapter II of the Constitution, citizens and institutions cannot take legal actions to enforce these goals to inure in their favour. The primary role of the judiciary in Nigeria and other civilized democracies of the world is that of adjudication. The judiciary is therefore that institution that has the primary responsibility of interpreting the laws of the country. There is no doubt that the judiciary is the organ of government that has the constitutional mandate to adjudicate on all types of disputes in Nigeria including electoral disputes. The opinion has been canvassed that the judiciary, also known as the judicial system or judicature is the system of courts which interprets and applies the law in the name of the state.[26] The judiciary also provides a mechanism for the resolution of disputes. Under the doctrine of separation of powers, the judiciary generally does not make law or enforce law. The judiciary rather interprets law and applies it to the facts of each case. The judicial branch of government is often tasked with ensuring equal justice under law. It usually consists of a court of final appeal (often called the "Supreme Court") together with lower Courts. The judiciary is the organ that watch over the constitution to check any breach or violation of the letters and spirit of the constitution by the executive and legislature in exercising the powers allocated to them by the constitution

The judiciary carries out this task by way of judicial review of exercise of powers by the executive and legislature. The judiciary is still generally considered as the last hope of the citizen by every right-thinking Nigerian. The stability of the country will depend upon the observance in its letter and spirit the provisions relating to the independence of the judiciary in future constitutional arrangement.[27] The International Community has formulated basic principles, to assist member states of the United Nations in their task of securing and promoting the independence of the judiciary within the framework of their national legislation and practice. The basic principles are principally that the independence of the Judiciary should be guaranteed and enshrined in the constitution or law of the country. In Nigeria, these basic principles have been enshrined in section 6 and chapter iv of the constitution of Federal Republic of Nigeria, 1999 (as amended). The social objectives in chapter II of the Constitution of Federal Republic of Nigeria, 1999 (as amended) which provides that the independence, impartiality and integrity of Courts of law, and easy accessibility thereto shall be secured and maintained.[28] These are very lofty provisions in the Nigerian constitution, however, the above provision are not justiciable.[29]

The question confronting discerning minds is whether Nigeria has been able to conform to the seven basic principles or litmus test formulated by the international community to determine if the country has thrived in the task of securing and promoting the independence of the judiciary. We need to restate right away that Nigeria as a country made ample provisions in the constitution of Federal Republic of Nigeria 1999 (as amended) that the exercise of legislative powers[30] of the Federal and State government shall be vested in National Assembly and State House of Assembly respectively. The executive powers[31] of the federation and state government was vested in the President and Governor respectively. The judicial powers[32] of the Federation and the state was vested in courts established for the federation and state respectively. The Nigerian constitution created the division of court system of hierarchy of courts into superior courts and lower courts created by State Houses of Assembly. The hierarchy of superior courts created by the constitution are the supreme court, the Court of Appeal, the Federal High Court, the National Industrial Court, the High court of the FCT, Abuja, the High Courts of States of the Federation, the Sharia Court of Appeal and Customary Court of Appeal. The lower courts in Nigeria created by laws of State Houses of Assembly are the Magistrate's Court, Area Court, Customary Court, the Sharia Court, District Customary Court etc. These lower Courts are responsible for adjudication at the grass root level and their jurisdiction is as provided by laws of State Houses of Assembly. These lower courts are very important to the administration of justice in Nigeria as they are closer to the people at the grass root or local level. The Magistrate's court is also very important to the administration of justice as they handle the bulk of criminal cases and are courts of summary jurisdiction for quick dispensation of justice in Nigeria.

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[22] *Black Law Dictionary* (Supra) P 540
[23] (2001) Vol. 6 M.J.S.C 89 at 119
[24] Section 6 of Constitution of Nigeria, 1999 (as amended)
[25] See Section 17 (2) (c) of Constitution of Nigeria, 1999 (as amended)
[26] Hon. Justice B.A. Adejumo, 'Judiciary and the Rule of Law: challenges of Adjudication in the Electoral process', (Paper delivered at The Conference of Speakers of Southern House of Assembly in Nigeria held in Akure on 17th June, 2010), http://www.nicn.gov, accessed 24/6/2025
[27] A.G Karibi-Whyte, *The Relevance of the Judiciary in the polity – In historical perspective*, (Nigerian Institute of Advanced Legal Studies, Lagos, 1987) page 99
[28] See section 17 (1) (e) of the Constitution of Federal Republic of Nigeria, 1999 (as amended)
[29] See section 6 (6) (c) of the 1999 Constitution (as amended)
[30] See Section 4(1) and 4(6) of the 1999 constitution (as amended)
[31] See Section 5(1) and 5(2) of the 1999 constitution (as amended)
[32] See Section 6(1) and 6(2) of the 1999 constitution (as amended)

There appears to be clear cut separation of powers between the legislature, executive and judiciary in Nigeria. As provided in Sections 4, 5 and 6 of the Constitution of Federal Republic of Nigeria 1999 (as amended), the three different arms of government are manned by different personnel or officers. What remains to be seeing is the relationship between the three arms of government in the exercise or operation of the powers granted them by the constitution. The argument was canvassed that the so – called separation of powers does not in fact mean keeping the three arms in water-tight compartments. In practical terms there are many areas of activities or exercise of powers of the legislature and executive that impugn on the independence of the judiciary. For example, appointments of judicial officers are made by the executive either directly or on the recommendation of the National Judicial Council. The budget of the judiciary and appointments of judicial officers in some cases also require the approval of the legislature. We have also fingered the membership of Attorney General of Federation, Attorney General of States and other political appointees in the Judicial Service Committee of Federal Capital Territory, Abuja and State Judicial Service Commission as impacting negatively on the independence of judiciary in Nigeria. This is so because the stated appointees are appointed by the President (executive) or Governor (executive). This is a direct affront on the principles of separation of powers as the Attorney General of the Federation and Attorney General of States are members of the executive arm of government.

4. Some Challenges Militating against the Independence of the Judiciary and Just Adjudication of Electoral Disputes since 1999

Administrative/financial autonomy of judiciary: The 1999 Constitution (as amended) created the National Judicial Council[33]; the Federal Judicial Service Commission[34], the Judicial Service Committee of the Federal Capital Territory[35] and the various State Judicial Service Commission (JSC)[36]. These bodies are executive bodies set up by the constitution to manage the judiciary at various levels in Nigeria. In an attempt to ensure the independence of certain bodies, which include the National Judicial Council and the Federal Judicial service commission among other bodies, the Constitution provided that in exercising its power to make appointments or to exercise disciplinary control over persons, such bodies shall not be subject to the direction or control of any other authority or person.[37] It is submitted here that the above provision of the constitution is applauded as a panacea for independence of the judiciary in Nigeria. The National Judicial Council comprise of the Chief Justice of Nigeria as chairman, the next most senior Justice of the Supreme Court as the deputy chairman and other members provided for in the constitution or appointed by the Chief Justice of Nigeria.[38] The powers of National Judicial Council of Nigeria are also clearly stated in the Constitution of Nigeria, 1999 (as amended) to include the recommendation of persons for appointment as Chief Justice of Nigeria, Chief Judges of FCT, States and other Judges of superior courts in Nigeria, collection, control and disbursement of all money for the judiciary, and deal with broad issues of policy and administration among others.[39]

The NJC occupies a very important position in the administration of the judiciary in Nigeria. The need to ensure separation of powers as provided in the Nigeria constitution and to ensure independence of the judiciary led to the creation of the institution known as National Judicial Council (NJC) to coordinate the appointment, promotion, funding, ensuring standards and discipline in the judiciary throughout the Federal Republic of Nigeria. It remains to be seeing whether the creation of this respected body (NJC) has guaranteed the independence of the judiciary in Nigeria. Paragraph 5 of part II of the 3rd schedule to 1999 Constitution (as amended) provided for the composition of State Judicial Service Commission, which executive body is headed by the Chief Judge of the state as the chairman of the Commission. Paragraph 1 of Part III of the 3rd Schedule to the 1999 Constitution (as amended) provided for the composition of Judicial Service Committee of the Federal Capital Territory, Abuja, which body is headed by the Chief Judge of the Federal Capital Territory, Abuja as Chairman of the Committee. The State Judicial Service Commission and the Judicial Service Committee of the Federal Capital Territory, Abuja are empowered to advise the NJC on suitable persons for nomination as Chief Judge and Judicial Officers, also to recommend to the NJC the removal from office of Judicial Officers, to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of superior courts in the state and FCT, Magistrates and Judges of Area and Customary Courts.

An opinion has been canvassed that the National Judicial Council, State Judicial Service Commission and Judicial Service Committee of Federal Capital Territory, Abuja are not judicial bodies but executive bodies constituted for the smooth running of the judiciary as well as securing and upholding its independence are inundated with different challenges.[40] It is apparent that save for the NJC that the members are either stated in the constitution or appointed by the Chief Justice of Nigeria, the appointment of most members of the State Judicial Service Commission and the Judicial Service Committee of the Federal Capital Territory, Abuja is done by the President or State Governor in appropriate cases. The presence of the Attorney General of the Federation and Attorney General of the State, who are members of the Federal executive Council and the State executive

[33] See Section 153(1) of Constitution of Nigeria, 1999 (as amended)
[34] Ibid
[35] See Section 304 (1) of 1999 Constitution (as amended)
[36] See Section 197 (1) of 1999 Constitution (as amended)
[37] See Section 158 (1) of 1999 Constitution (as amended)
[38] See paragraph 20 of part 1 of the 3rd schedule to the 1999 constitution (as amended)
[39] See paragraph 21 of part 1 of the 3rd schedule to the 1999 constitution (as amended)
[40] Hon. Justice A. Ngene, 'overcoming challenges to judicial independence: The journey so far', (paper presented to 2024 All Nigerian Judges conference of the lower courts for Magistrates and Judges of the Area/customary courts held at National Judicial Institute, FCT, Abuja, 11 – 15 November, 2024)

Council respectively in those bodies (Judicial Service Committee of Federal Capital Territory, Abuja and State Judicial Service Commission) makes them executive bodies and not judicial bodies. The presence of members of the executive arm of government in the judicial arm of government is also a negation of the principle of separation of powers and this raise serious question whether the judiciary is truly independent. Apart from the serving Judges that are members of the State Judicial Service Commission and Federal Capital Territory, Abuja, the remaining members are political appointees by the President of the Federation or Governor as the case may be. Even non lawyers are appointed to such bodies and these appointments make such bodies far cry from being judicial bodies. Political appointees into these bodies have negatively impacted on the independence of the judiciary in Nigeria.

The judiciary in Nigeria now enjoy financial autonomy. The funds of the judiciary in the federation account is made mandatory to be paid directly to the NJC for disbursement to heads of superior courts in Nigeria.[41] It has been made mandatory that any money belonging to the judiciary of a state in the consolidated revenue fund of the state shall be paid directly to the heads of the courts concerned.[42] All monies due to the judiciary now include capital and recurrent expenditure.[43] Recently, the Federal government increased the emoluments of judicial officers by 300 percent.[44] Comparatively, in the United States of America, Judges are expected to hold their offices during good behavior and their payment for their services shall not be diminished during their tenure of office.[45] The American constitution is said to have provided mechanisms in article III for ensuring that the judiciary was in fact independent.[46] We opine here that Nigeria does not really need any government to increase the salaries and allowances of judicial officers as if the government is doing Judges a favour, which will in turn affect the independence of the judiciary. What should be provided in our legal framework is periodic review of salaries and allowances of Judges in line with the trend of inflation in the country.

***Appointment and discipline of judges*:** The NJC is empowered to make recommendation to the president or the Governor as the case may be on the persons to be appointed as Judges of the Superior Courts. The State Judicial Service Commission and the Judicial Service Committee of the Federal Capital Territory, Abuja are also empowered to recommend qualified persons to the NJC for approval as Judges of superior courts within their spheres. We have demonstrated earlier that the appointment of members of executive arm of government and political appointees into the State Judicial Service Commission and Judicial Service Committee of the Federal Capital Territory, Abuja impugn on independence of the judiciary and principle of separation of powers. The idea of members of the executive and legislative arms of government playing leading roles in the appointment process of judicial officers negate the principle of separation of powers and independence of the judiciary. Apart from general qualification set down for appointment of judicial officers there are guidelines set by NJC but no examination to appoint the best candidates for the job. There has been public outcry and allegation of nepotism in the appointment process of judicial officers. The process of judicial appointment under paragraph 21 of the third schedule to the Constitution vests powers in the NJC. However, undue political influence, ethnic favoritism and lobbying weaken merit – based selection.[47] In April, 2020 the NJC recommended 35 nominees to the President as Judges of high court. It raised a lot of dust for alleged violation of rules for selection of Judges.[48]

The NJC is empowered to maintain discipline and standard in the judiciary. Removal of judicial officer from office who is the head of superior court at the federal level can be done by the President of the federation acting on an address supported by two – third majority of the senate.[49] Judicial officer, who is head of superior court at the state level can be removed from office by the Governor acting on an address by two-thirds majority of the house of assembly for his inability to discharge the functions of his office due to ill-heath, misconduct or contravention of code of conduct.[50] The other situation for removal of judicial officer from office before retirement is that the NJC should make recommendation to the President or Governor for removal of judicial officer from office for his inability to discharge the functions of his office due to ill – health, misconduct or contravention of code of conduct.[51] The NJC has in the past sanctioned erring Judges, however, it appears to be a drop in the ocean. Recently, the NJC approved the compulsory retirement of ten Judges of Imo State Judiciary. The NJC stated that nine of the affected Judges falsified their dates of birth in a bid to perpetuate themselves in office while the tenth Judge was retired for allowing himself to be sworn in as the acting Chief Judge of Imo State, even though he was the fourth in the hierarchy of Judges in Imo State Judiciary contrary to section 271 (4) of the 1999 Constitution (as amended).[52] There is no doubt that the NJC has taken bold steps in safeguarding the integrity and independence of the judiciary in Nigeria, however, a lot need to be done as there are mountains of allegation of corruption against judicial officers and the public perception that there is a lot of corruption going on in the judiciary.

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[41] See Section 162 (9) of 1999 Constitution (as amended)
[42] Section 121 (3) of 1999 Constitution (as amended)
[43] See Section 121 (4B) of 1999 Constitution (as amended) inserted by fifth Alteration Action, (No.6) of 2023
[44] See Judicial Office Holders (Salaries and Allowances, Etc) Act, 2024.
[45] See Article Three, Section one of the constitution of the United States of America; see also Section 84 of 1999 constitution (as amended) as Judges salaries in Nigeria cannot be diminished.
[46]Judge W. Y. Daniel 'The Rule of Law' *Nigerian Law and practice Journal* (Council of Legal Education, Nigerian Law School, 1997) P. 119 -120
[47] M. Ubani, SAN, 'The Strength of the Judiciary: People's Confidence, Glory foretold or Disaster waiting to happen'. (Keynote Address at NBA Aba Branch Law Week, June, 2025)
[48] https://punchng.com/ 33-fct – judges – njcs – appointment – process – faces – biggest – test/ accessed 29/6/2025
[49] See Section 292(1) (a) (i) of 1999 Constitution (as amended)
[50] See Section 291(1) (b) of 1999 Constitution (as amended); *Opene v NJC & Ors* (2023) LPELR -60656 (CA)
[51] Ibid
[52] www.vanguargngr.com, accessed 29/6/2025

The most serious breach and challenge to the independence of the judiciary was master minded by the government of President Muhammadu Buhari that used the code of conduct tribunal to order the removal of Justice Walter Onnoghen as Chief Justice of Nigeria (CJN) and Chairman of National Judicial Council (NJC) without recourse to the NJC that has the constitutional mandate to discipline erring Judges.[53] This unconstitutional removal of the number one judicial officer in Nigeria did not only erode the independence of the judiciary, it succeeded in cowing the once vibrant Nigeria judiciary. The violation of the constitution and illegal removal of Justice Onnoghen was widely criticized and condemned by well-meaning Nigerians.[54] On the contrary, in the case of *Opene v NJC & Ors*[55] the Appellant was a Federal Judicial Officer, a Justice of the Court of Appeal, on account of a complaint about the conduct of the hearing of an election appeal at the Enugu Division of the court of Appeal, petitions were written to NJC against the Appellant. The NJC followed due process in the investigation of the Appellant and its findings recommended to the appropriate authority that the Appellant be removed from office for misconduct. The Appellant commenced action in the Federal High Court for judicial review and it was dismissed. His appeal to the Court of Appeal was also dismissed. The executive and legislative arms of government are also responsible for the removal of judicial officers that are heads of courts at the federal and state level.[56] In the case of other judicial officers, the NJC can only make recommendation to the President or Governor as the case may be for the removal of such judicial officer.[57]

***Enforcement of Judicial Decisions*:** The constitution did not empower the judiciary to enforce its own decisions. Rather, security agencies and the police are under the executive -arm of government. The police play critical role in the enforcement of courts decisions and the executive may use them to undermine the judicial branch of government. The judicial branch does not have machinery of its own for the enforcement of its decisions. A situation where the decision of court is against the executive or legislative branch, it becomes more complicated as the judicial branch cannot enforce such decision if the appropriate authority refuse or fail to enforce the decision of court.[58]

***Executive Interference*:** The executive in the Federal and State level in Nigeria has become so powerful that they interfere with everything including the judiciary. In Edo State for example, after the NJC approved the appointment of eight Judges of the High Court, Governor Godwin Obaseki refused to swear them into office. After a long time and due to public outcry he swore in some and left others out. It took the pragmatic approach of the new Governor, Senator Monday Okpebholo to swear into office the Judges victimized against by the former Governor. With the executive having the power to appoint heads of courts and Judges, the executive continues to maintain influence and interfere with the independence of the judiciary.

***Corruption*:** Corruption is now a cankerworm plaguing the social fabric of the society. The Judiciary is not insulated from this cankerworm called corruption. Corruption in Nigeria judiciary has robbed the judicial system of its independence and public trust. The United Nations office on Drugs and Crimes (UNODC) is reported to have stated that 2019 survey conducted by the UNODC and the National Bureau of Statistics (NBS) found that 20 percent of those who had contact with Nigerian judiciary were confronted with a request for the payment of a bribe.[59] Despite the hue and cry against some judicial officers compromising justice, there are still many judicial officers in Nigeria that are above board and shunning corruption. The public perception of Judges being bought to fix Judgment is now palpable. As the blame game continue to point to such Judges, soul searching should also be watchword of some legal practitioners that corrupt Judges and Magistrates to swing judgment in their favour. Judicial corruption in Nigeria is said to have developed into systematic and institutional problem.[60]

***Lack of Infrastructure and modern tools*:** One underlying factor that is universal to the judiciary in Nigeria is lack of infrastructure and modern tools. From the Magistrates courts to the High Courts there is dearth of modern infrastructure and modern tools like modern court buildings, ICT, modern proceedings recording devices, computers, electronic library etc for optimal performance of the judiciary in the adjudication process. There is no doubt that having courts sit in modern well-furnished buildings with modern working tools will enhance the independence of the judiciary and optimal discharge of the constitutional duties bestowed on the judiciary. To think that judges and magistrates in Nigeria still record proceeding in long hands is archaic and a clog in the administration of justice. The delay in the administration of justice caused by failure to digitalise trial of cases in Nigeria has led to congestion in our courts. The appellate courts appear to be worst hit by delay and congestion of cases. There is need to fast track the trial of cases by employing ICT tools as no Judge or Magistrate ought to be recording proceeding in long hands at this ICT age. The problem of petitioner obtaining certified true copies of electoral materials/results from INEC bearing in mind that the petitioner has twenty-one days from date of declaration of result of the election to file election petition has negatively impacted on electoral litigation.

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[53] https://guardian.ng/news/cct-convicts -sacks-Onnoghen–as–Chief–Justice–njc– Chairman/ accessed 30/6/2025

[54] See Onnoghen: Our democracy in danger, vanguard newspaper editorial, of 30/1/2019 www. Vanguardngr.com, accessed 30/6/2025; Emma Aziken, Buhari has shown disregard for Nigerian constitution', vanguard, Lagos 28/1/2019 www. Vanguargngr.com, accessed 30/6/2025

[55] (2023) LPELR – 60656 (CA)

[56] See Section 292 (1) of 1999 Constitution (as amended)

[57] See Section 292 (1) (b) of 1999 Constitution (as amended

[58] F. Olisa Awogu, The Judiciary in the Second Republic of Nigeria 1979 – 1983 (Pacific College Press Ltd, Onitsha 1984) p. 24 - 25

[59] UNODC 'Corruption in Nigeria Judiciary is extensive' https://www.premiumtimesng.com/news /top - news/ 673568 - corruption - in – Nigerian – judiciary – is – extensive – Unodc. Html, accessed 8/7/2025

[60] E. Ozoani, SAN, 'Restoring Credible Justice: Bridging the Gap Between Law and Public Trust in Nigeria's Judiciary' (Keynote Paper delivered at the Nigeria Bar Association (NBA) Benin Branch Law Week on 14th July, 2025 at High Court Complex, Benin City)

Dearth of judicial officers impacting both on electoral adjudication of electoral disputes and adjudication of Civil and Criminal proceedings in regular Courts as the circle of judicial adjudication of electoral disputes come around annually or more regularly. The issue of technicalities and cumbersome burden of proof of electoral malpractices/corrupt practices in Nigerian electoral jurisprudence has militated against attaining justice in electoral dispute adjudication since 1999. The burden of proof and standard of proof in adjudication of electoral disputes is cumbersome. The burden of proof rest squarely on the petitioner in adjudication of electoral disputes. This burden of proof is an onerous one as INEC that is responsible for conduct of election is in custody of electoral materials/results required for proof of election petitions. Where there are criminal allegations in election petitions the standard of proof is very high as such criminal allegations in election petitions must be proved beyond reasonable doubt.[61] In view of the criminal nature of electoral malpractices criminal allegations are common occurrence in the pleadings of election petitions and they are very difficult to prove due to the very high standard of proof of criminal allegations.

***Periodic Review of Remuneration and emolument of judicial officers*:** This is one area that makes the judiciary subservient to the legislature and the executive. The judiciary should not go cap in hand begging for review of their remuneration and emolument and it should not be reviewed as if the government in power is doing the judiciary a favour. The last review of salaries and allowances of judicial officers was done recently.[62]

Failure or refusal to abide by the doctrine of judicial precedent has also had huge negative impact of judicial adjudication of electoral disputes in Nigeria since 1999. By virtue of principle of judicial precedent or stare decisis lower Courts are bound to follow the rulings or judgements of higher courts on the same or similar facts except they can distinguish the instant case from the decided case of the higher Court or Supreme Court. The Supreme Court in case of *A.G Lagos state v Eko Hotels limited*[63], noted that the principle of judicial precedent or stare decisis is designed to ensure orderliness, certainty and discipline in the judicial process. In the case of over sixteen lawmakers of Plateau state, the Court of Appeal refused to abide by long list of Supreme Court decisions on pre-election matters. This occasioned grave injustice in judicial adjudication involving over sixteen lawmakers from plateau state. The Supreme court has earlier noted in *Dalhatu v Turaki*[64] that a refusal by a Judge of the court below to be bound by the decisions of a higher Court is gross insubordination, judicial rascality, reckless, judicial impertinence and the judicial officer is a misfit in the judiciary.

5. The Role of Judiciary in Adjudication of Electoral Disputes in Nigeria Since 1999

The role of the Judiciary in adjudication of electoral disputes in Nigeria since 1999 is a creation of the Nigerian Constitution. The Constitution of Federal Republic of Nigeria, 1999 (as amended) created the National and State Houses of Assembly Election Tribunals for each state of the federation and the federal capital territory with exclusive original jurisdiction to determine whether any person has been validly elected to the National Assembly and State Houses of Assembly.[65] The Constitution also established for each state of the federation Governorship Election Tribunal with exclusive original jurisdiction to determine petitions whether any person has been validly elected as Governor or deputy Governor of a State.[66] For the Presidential election, the constitution mandated the Court of Appeal to have exclusive original jurisdiction to determine whether any person has been validly elected as President or Vice President of Nigeria and other related issues concerning both offices.[67] The composition of the National and State Houses of Assembly election tribunal and the Governorship election tribunal shall comprise of the chairman and two other members. The chairman shall be a high court judge and the two other members shall be a Judge of High Court/Co-ordinate jurisdiction or a Chief Magistrate.[68] The quorum of election petition tribunal shall be the chairman and one other member.[69]

The 1999 constitution (as amended) has introduced radical changes to electoral jurisprudence with the sole aim of fast-tracking judicial adjudication of electoral disputes in Nigeria since 1999. An election petition is mandated to be filed within 21 days from the date of declaration of result of the election complained of.[70] The legal implication of the constitutional provision is that it is mandatory to file election petition within 21 days from date of declaration of result of the election. Election petition being sui generis the election petition tribunal cannot enlarge or extend time for filing of election petition. Any petition that fails to comply with the strict constitutional provision as to time within which to file an election petition is liable to be dismissed by the election petition tribunal. The Court of Appeal has held that compliance with statutory provision as to time within which to file an election petition is a fundamental pre – condition, a breach of which is incurable and failure to comply with the statutory provisions is fatal and in such a case the court has no jurisdiction to entertain the petition.[71] Another radical change introduced by the Nigerian constitution is that election tribunal is mandated to deliver its judgment in writing within 180 days from date of filing the petition and appeal from such decision must be heard and decided within 60 days from date of delivery of judgment of the tribunal or court of Appeal.[72] The Supreme Court while interpreting Section 285 (6) and (7) of the 1999

[61] See *Nwobodo v Onoh* (1981-1990) LRECN 369 and *Izuogu v Udenwa* (1999) 4 LRECN 601
[62] See Judicial Office Holders (salaries and Allowances, etc.) Act, 2024.
[63] (2025) EJSC (vol.217) 2 at 22
[64] (2003) 110 LRCN 1572 at 1577.
[65] See section 285 (1) of the Constitution of Federal Republic of Nigeria, 1999 (as amended)
[66] See Section 285 (2) of the 1999 Constitution (as amended)
[67] See Section 239 (1) of the 1999 Constitution (as amended)
[68] See sixth schedule to 1999 Constitution as amended
[69] See section 285 (4) of 1999 Constitution as amended; see also *Nyesom v Peterside* (2016) EJSC (vol. 47) 100 at 152
[70] See Section 285 (5) of the 1999 Constitution (as amended)
[71] See *Ikharaiale v Okoh* (2008) 2 LRECN 47 at 71
[72] See Section 285 (6) and (7) of 1999 Constitution as amended; See *Ugba v Suswam* (2016) EJSC (vol.31) 102 at 141 – 143

Constitution (as amended) held that the courts have statutory obligation to hear and determine election matters within the time prescribed by Section 285 (6) and (7) of the 1999 Constitution, the Court of Appeal cannot invoke its rule of court to extend time in election matters covered by Section 285 (6) and (7) of the Constitution. There is also another radical reform in judicial adjudication of electoral disputes in Nigeria. It used to be the position that election petitions are truncated with preliminary objections on technicalities without the election tribunal or court hearing the petitions on the merit of the case. Flimsy technical point such as signing of election petition in perceived wrong page has led to striking out of election petition without giving the parties the opportunity of being heard by leading evidence before the election tribunal or court will render its final judgment in the petition. In the unreported case of *Hon. Samson Raphael Osagie & Anor v Pharmacist Matthew Aisagbonriodion Urhoghide & Ors*,[73] the National/State House of Assembly Election Petition Tribunal, holden in Benin City, Edo State, struck out the Petitioner's petition as being incompetent for signing the petition in the perceived wrong page contrary to paragraph 4 (3) (b) of the first schedule to the Electoral Act, 2010 (as amended). Contrary to the trap of technicality fell into by the tribunal, the Court of Appeal in *Inec v Oshiomole*[74] held that the days of justice by technicality are definitely over.

The Court of Appeal in another case while upholding the signing of the Petition at the foot of the petition held that it is trite that rules of court do not confer jurisdiction, it follows therefore that violation of paragraphs of the first schedule to the Electoral Act does not in themselves invalidate the petition. Jurisdiction can only be conferred by the constitution or the enabling statute.[75] The new position of the law is that where there is preliminary objection or any interlocutory application touching on jurisdiction of the tribunal or court in any pre – election matter or competence of the petition, the tribunal or court should suspend its ruling and deliver it during final judgment.[76] The reasoning behind this innovation is to fast track the hearing of election petition and reduce unnecessary technicalities in the adjudication process. With these lofty provisions citizens are given the opportunity to ventilate their grievances by leading evidence of electoral malfeasance at the election tribunal or court.

Pre-election matter is expected to be filed not later than 14 days from the date of occurrence of the event, decision or action complained of and a court hearing pre – election matter shall deliver its judgment in writing within 180 days from the date of filing pre – election matter.[77] It is also expected that an appeal from decision of the court in pre-election shall be filed within 14 days from date of delivery of the judgment appealed against and such appeal shall be heard and disposed of within 60 days from date of filing such appeal.[78] These constitutional provisions made radical departure from the old order of pre-election matters as election tribunal or court can no longer declare any person winner at an election which such person has not fully participated in all stages of the election.[79] This innovation has addressed the lacuna in the legal framework that resulted in declaring a candidate that did not participate fully in all stages of the election winner in the case of *Amechi v INEC*.[80]

There is a radical change to the Nigerian constitution[81] that is going to impact on electoral adjudication in Nigeria in the future. The constitutional amendment provided by the fifth alteration to the 1999 Constitution in section 285 (13A) now recognize force majeure as a ground to depart from strict application of the limitation of time to file election petition or pre-election matter. The constitution now recognize war, state of emergency, natural disaster or any other force majeure in any part of the country as grounds to depart from the strict application of limitation of time to file election petition or pre-election matter. In view of the insecurity in the North cast and some other parts of the country it remains to be tested whether such situations will meet the new constitutional provision to depart from the strict application of limitation of time to file election petition or pre – election matter in Nigeria. It is our view here that due to the pervading effect of insecurity across the country, the courts should be careful in the application of the new amendment so that politicians don't turn it to easy way out of their failure to file election petition or pre-election matter within the time provided by the constitution. This is due to the fact that election petitions are *sui generis*, as it need speedy adjudication due to its importance to the development and stability of the country. The court should also insist on documentary evidence of force majeure and not just oral evidence from petitioners for their failure to file election petition or pre-election matter within time allowed by the constitution.

6. Some Conflicting Decisions of Appellate Courts in Electoral Adjudication since 1999

There are very many conflicting decisions of appellate courts in electoral dispute adjudication in Nigeria since 1999 that cast shadow on the independence of the judiciary. We shall consider few of such cases especially in two areas of computation of time and pre-election matters. As regard computation of time, two areas have raised a lot of dust in electoral adjudication since 1999. Computation of time as regard the time allowed by the constitution for filing of election petition and the time allowed by the constitution for the hearing and determination of election petition by election tribunal. In *Ogbebor v Danjuma*[82], the Court of Appeal held that the time allowed for presentation of election petition starts running from the date the result was declared.

[73] Petition No. EPT/EDS/NSHA/SEN/09/2015

[74] (2008) 3 LRECN 649 at 670

[75] See Appeal No. CA/B/EPT/270/2015: *Hon. (Engr.) Doris Amina Uboh & Anor v Hon. Victor Nwokolo & Ors*, Court of Appeal, Benin City (unreported); See also *Belgore v Ahmed* (2013) 8 NWLR (pt. 1355) 60 at 91 – 92

[76] See Section 285 (8) of 1999 Constitution (as amended)

[77] See Section 285 (9) and (10) of 1999 Constitution (as amended); see also the supreme court decision in *Apc v Uduji & Anor* (2020) EJSC (Vol.135) 86 at 104; See also *Garba v APC & 2 Ors* (2024) EJSC (Vol. 202) 178 at 207 - 208

[78] See Section 285 (11) and (12) of 1999 Constitution (as amended)

[79]See Section 285 (13) of 1999 Constitution (as amended); see *Orji v Chima &3ors* (2024) EJSC (vol.204) 2 at 32

[80] (2008) Vol. 158 LRCN 1

[81] See Section 285 (13A) of 1999 Constitution (as amended)

[82] (2003) 1 LRECN 517 at 536; See also *Kumalia v Sheriff* (2008) 1 LRECN 582 at 594; *Alataha v Asin* (1999) 5 NWLR (pt. 601) 32 at 44 also reported in (1999) 4 LRECN 345.

The Court of Appeal refused to resort to aid of the interpretation Act or any aid to give effect to time allowed by statute for presentation or filing of election petition. In *Agbai v INEC*[83] the Court of Appeal held that a petition not filed within time allowed by statute but outside time limited by statute would be out of time and in contravention of the mandatory provision and therefore incompetent. On the contrary, the Court of Appeal took a different position of applying the interpretation Act to hold in *Iyirhiaro v Usoh*[84] that the day the result of election was declared is excluded and if the last day of it falls on holiday, the day following will be the day of expiration of time for filing of election petition. On the issue of time frame for hearing and determination of election petition by election tribunal, the Supreme Court held in *ANPP & Ors v Goni & Ors*[85] that an election tribunal shall deliver its judgment in writing within one hundred and eighty (180) days from the day of filing the petition.

On attempt by the Court of Appeal to extend the time allowed by the constitution by ordering a retrial by tribunal which had ceased to have jurisdiction in the matter, Onnoghen, JSC held that: '… the time fixed by the constitution is like the rock of Gibraltar or mount Zion which cannot be moved; that the time cannot extended or expanded or elongated or in any way enlarged; that if what is to be done is not done within the time so fixed, it lapses as the court is thereby robbed of the jurisdiction to continue to entertain the matter.'[86] There is no doubt that the situation that happened in *ANPP & Ors v Goni & Ors(supra)* where the parties to the petition spent over one hundred and eighty (180) days filing and litigating over preliminary objections without actual hearing of the petition is against the letters and spirit of the constitution. There is the need for expeditious hearing and determination of election petition; time is of the essence.

Pre-election matter is another area that has caused challenges in adjudication of electoral disputes since 1999. The grave injustice that happened in Plateau State is worthy of note. Recently, what appears like the greatest injustice occurred when sixteen lawmakers of the Plateau State house of assembly and five national assembly members were sacked by the Court of Appeal in brazen disregard of Supreme Court decisions on pre-election matters.[87] The injustice occasioned by the Court of Appeal decision that deprived over sixteen lawmakers in Plateau state of their electoral victory at the polls has led to public outcry and condemnation. The development has led to public discontent over alleged political injustice created by the decisions of the court of Appeal on cases arising from the 2023 general elections.[88] The Judicial tragedy occurred because there is no opportunity for judicial review of legislative election petition as it constitutionally end at the court of Appeal, being the final court in such election matter.[89] In the case of *Manasseh v Goshwe & Ors*[90] this is an appeal by Mutfwang Caleb Manasseh the Governor of Plateau State where the Supreme Court came out heavily on the injustice occasioned by Court of Appeal decision in Plateau State electoral disputes. The issue that arose in the case before the supreme Court was whether an election tribunal has jurisdiction to determine questions about the validity of the primary election, nomination and sponsorship of a candidate of a political party for an election. The Supreme Court held that the question of the validity of the primary election and nomination of the candidate of a political party for a general election and the question of whether ward, Local Government and State executive committees existing at the time were validly elected are clearly outside the subject matter jurisdiction given to a State Governorship Election Tribunal by S.285(2) of the constitution of the Federal Republic of Nigeria (the 1999 Constitution).

The injustice foisted on lawmakers of Plateau State house of assembly and some national assembly members from the state by the Court of Appeal is unprecedented in judicial adjudication of electoral disputes and unsupported by a long list of Supreme Court decisions on pre-election matters.[91] The Court of Appeal also reached the same erroneous decision in the case of Governor Caleb Mutfwang Manasseh of Plateau State but on appeal to Supreme Court in Case of *Manasseh v Goshwe*(supra) the injustice foisted by the Court of Appeal was exposed as the Supreme Court held that an election tribunal has no jurisdiction over questions concerning the validity or otherwise of pre-election processes and that a political party's primary election and nomination of its candidate for an election being a pre-election process is not within the jurisdiction of an election tribunal and by virtue of S.84(1) of the Electoral Act 2022 its validity can be challenged with the Electoral Act and the guidelines of a political party for the selection or nomination of a candidate of the political party for election by an action in the Federal High Court. It has been established that only a member of political party who was an aspirant during the party's primary election can challenge its primary election.[92]

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[83] (2008) 4 LRECN 747 at 764
[84] (1999) 4 LRECN 558 at 569 – 570; see also PDP v Haruna (2004) 2 LRECN 207 at 218.
[85] (2012) vol. 207 LRCN 17 at 46
[86] *ANPP & Ors v Goni & Ors* (Supra) at 48 – 49
[87] https://www.premiumtimesng.com/news/top-news/659200 - how - lalong - 22 – other – lawmakers – benefitted – from – appeal – courts – wrong – judgments. html accessed 2/8/2025. See *Salim v CPC & Ors* (2013) LPELR – 19928 (SC) and *APP v Obaseki* (2022) 13 NWLR (pt. 1846) 1 at 33 (SC), Supreme court decisions on pre-election matters.
[88] Francis Ugwu, 'Supreme Court Judgment: Plateau lawmakers dilemma reignites calls for Electoral Act amendment', https://dailypost.ng/2024/01/17/ supreme –court – judgment – plateau – lawmakers – dilemma – reignites – calls – for – electoral – act – amendment/ accessed 6th August, 2025
[89] See Section 246 (3) of 1999 Constitution (as amended)
[90] (2024) LPELR – 61673 (SC)
[91] See *Salim v CPC & Ors* (2013) LPELR – 19928 (SC), *Alahassan v Ishaku* (1016) 10 NWLR (Pt. 1520) 230 (SC), *Jegede v INEC & Ors* (2021) NWLR (pt. 1797), 409, APP v Obaseki (2022) 13 NWLR (Pt. 1846) 1 at 33 (SC), *Oni v Oyebanji* (2023) NWLR (Pt. 1902) 507 (SC), *Aguma v APC & Ors* (2021) LPELR – 5592 (SC) *Sani v APC* (2023) 17 NWLR (1912) 109 at 142 and *Ndukwe v Ayu* (2023) 5 NWLR (Pt. 1877) 309 (SC).
[92] *Alhassan v Ishaku* (2017) EJSC (vol.66) 142 at 211

7. The Way Forward

The judiciary in Nigeria needs courage and effectiveness to deliver on its constitutional mandate. Judges should shun political and external pressure to adjudicate on electoral disputes conscientiously. There should be judicial activism on the bench in the adjudication of electoral disputes. We recommend reforms to strengthen independence of the judiciary and judicial adjudication of electoral disputes in Nigeria as follows: There should be constitutional amendment to make executive bodies such as National Judicial Council, Judicial Committee of Federal Capital Territory, Abuja, State Judicial Service Commission etc. purely judicial bodies constituted only by members of judicial branch of government. There should be no political or executive appointees from the President or Governor as the case may be. The judiciary should be granted full administrative and financial autonomy. The judiciary should be removed from the apron string of the executive and legislative branch or arm of government so that it carries out its constitutional responsibilities without fear or favour. The legal framework should be strengthened to provide for periodic review of the salaries and allowances of judicial office holders in accordance with inflationary trend in the country to reduce corruption in the judiciary. Judicial corruption in Nigeria should be tackled head on as a preventive tool to avoid having a compromised judiciary impacting negatively on judicial adjudication of electoral disputes in Nigeria. The NJC need to be proactive in curbing judicial corruption in Nigeria. The present system of awaiting complaints against Judges is not good enough. The life styles and properties of Judges and their close relatives should be audited to check illegal acquisition of ill-gotten wealth. Nigeria is in dire need of more judicial officers or judges. More judges should be appointed to superior courts to address the shortfall or dearth of judges in Nigeria. Apart from electoral matters that have overburdened the judiciary, thousands of cases have piled up in high courts and appellate courts unattended to. There is the need to appoint more Judges and they should be young and energetic with the right intellectual capacity and sagacity to decongest our courts especially during judicial adjudication of electoral disputes. It is also suggested that in the appointment of judicial officers the appropriate authority should shun political patronage and nepotism in the appointment process. We advocate for a merit-based approach in the appointment process of judicial officers.

The Electoral Act, 2022 should be amended to make it mandatory for INEC to make certified true copies of electoral materials/results of the election available to Petitioners and Respondents within three days from date of declaration of result of the election bearing in mind that the Petitioner has twenty-one days from date of declaration of result of the election to file election petition. The constitution should be amended to reduce the duration of determination and delivering judgment of election tribunal from 180 days to 150 days from date of filing the election Petition; while the appeal period should be reduced from 60 days to 40 days in order to expedite the disposal of electoral matters. The Constitution of Federal Republic of Nigeria should be amended to address the situation such as the miscarriage of justice by the court of Appeal in Plateau state house of Assembly and national Assembly appeal from legislative tribunal as final arbiter. The proposed Constitutional amendment should make the Supreme Court the final arbiter in state house of assembly and national assembly appeal in electoral adjudication in Nigeria. The failure or refusal of lower courts to abide by the doctrine of judicial precedent or stare decisis is serious ethical issue that should attract sanctions in electoral adjudication in Nigeria. The issue of technicalities and cumbersome proof of electoral disputes should also be addressed. The issue of cumbersome proof of electoral disputes needs to be watered down with amendment of Electoral Act, 2022 by making INEC to share the burden of proof of electoral malfeasance with the Petitioner in election petition. INEC is the body responsible for conduct of the election and has custody of electoral materials/results for conduct of the election. INEC is in a better position to prove that it conducted the election in substantial compliance with the Electoral Act. It is also suggested that modern tools and ICT should be deployed to assist Judges in the adjudication of electoral disputes. There is no doubt that if the Judges are not recording proceedings in long hands, there will be speedy trial of electoral disputes. There is the need for uprightness and judicial activism from judicial officers involved in the adjudication of electoral disputes.

It is our hope that suggestions and recommendations adumbrated in this study will improve and impact positively on judicial adjudication of electoral disputes in Nigeria.