POLITICISATION OF THE JUDICIARY AND JUDICIALISATION OF POLITICS IN NIGERIA: IMPLICATIONS FOR DEMOCRACY*

Abstract
One of the key features in every democratic setting in the world is the need for the judiciary to perform its constitutional mandate without compromising its independence and impartiality. In the case of Nigeria, there is no gainsaying the fact that, since the beginning of the Fourth Republic, the political landscape has come under serious vituperation as a result of alleged complicity of the judiciary in political matters in the performance of its constitutional mandate of adjudication. Suffice it to say, that many judges and justices have been accused of engaging in political and commercial judgements.[1] *The lack of certainty in the pronouncements of election petition matters by judicial officers has further compounded the issue, thereby making caricature of the principle of judicial precedent*[2]*, which contemplates the idea of predictability and certainty in judicial decisions. This unfortunate development has generally created a negative perception of the judiciary by members of the Nigerian public as taking on the role of determining political leadership, by potentially supplanting the electorate in the crucial decision making process.*[3] *This article, therefore, employs the doctrinal research methodology to critically examine the politicisation of the judiciary and the judicialisation of politics in Nigeria and its implications in the context of Nigerian democracy. It also makes recommendations on how to strengthen the independence of the judiciary in the performance of its constitutional mandate in the dispensation of justice.*

Keywords: Judiciary, Judicialisation, Politicisation, Democracy, Nigeria

1. Introduction

Section 6 of the Constitution of the Federal Republic of Nigeria, 1999, as amended, deals with the judicial powers of the Federation and the States. The exercise of these judicial powers by judicial officers in Nigeria includes determination of political cases. Since the return of democratic governance in 1999, the Nigerian judiciary has been exercising these judicial powers in election petition matters, till date. The consequence of that, in many cases, is the removal of certain key political leaders such as Governors, Senators, members of the House of Representatives, members of the House of Assembly, among others. The removal of these political leaders by the Courts who supposedly were elected by the electorate in a 'free and fair' democratic contest had, over the years, created tension and, on many occasions, led to break down of law and order. The current perception among the Nigerian public is that the Nigerian judiciary has been politicised and Nigerian politics has been judicialised. It is not surprising the popular statement 'go to court' often made by some political actors, which is usually made not from a place of confidence in the judiciary, but a subtle reminder that the courts are generally in cahoots with them regardless of the strength of their opponent's case. As a result of this, judicial officers in Nigeria are often times being threatened and intimidated in the discharge of their constitutional duty. Secondly, it has generally created a sense of voter apathy among the electorate in Nigeria, considering the perception that the pronouncement of the judiciary is what matters and not the votes of the people. Thirdly, the image of Nigeria is often times stained on the international stage through media report of the role of the Nigerian judiciary on the political landscape.[4]

In the light of the forgoing, it is a fact that this trend was obvious in the 2023 general elections. Courts routinely decide the winners of primary elections, sack elected officials and declare runners-up as governors or lawmakers.[5] Critics have always pointed to a number of factors, some of which include allegations of corruption, politicisation of appointment of judicial officers, poor remuneration, influence of the executive arm of government and conflicting judgments. When all these are prevalent in the judiciary, the confidence reposed in it as the last hope of the common

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[1] Bridget Chiedu Onochie**,** 'Post-Election Litigation: Why Impartiality of the Judiciary is Vital' https://guardian.ng>politics-post-electoral-litigation-law >accessed 7th June 2025.
[2] *Abacha v Fawehinmi* (2002) 6 NWLR (pt. 660) 228.
[3] Magnus Onyibe, 'Between the Politicisation of the Nigerian Judiciary and the Judicialisation of Politics', https://www.vanguardngr.com>accessed 8th June 2025.
[4]Magnus O., 'Ethics, Judiciary and the Role of the Media in Justice Delivery' <https://vanguardngr.com/2023/11/between-the-politicization-of-nigerias-judiciary-and-the-judicialization-of-nigerian-politics/ >accessed 8th June 2025.
[5] Ibid.

man fades and public trust in the system evaporates, especially when citizens believe that justice is for sale or is only accessible to those in the corridors of power.

2. Clarification of Key Terms

There are fundamental terms that need clarification for the purpose proper figuration of the topic. These terms are Judiciary, Politicisation, Judicialisation and Democracy.

Judiciary: The Black's Law Dictionary[6]defines Judiciary as the branch of government responsible for interpretation of laws and administering justice. In a broad sense, the Judiciary is an umbrella term that covers - a judicial system comprising structure and jurisdiction of courts, appointments and tenure of judges and judicial proceedings.[7] In fact, the term encompasses judges of both superior and inferior courts.[8] The Constitution establishes the judiciary as an independent arm of government with interpretative powers in relation to constitutional and statutory provisions.[9] At the apex of the Nigerian judiciary is the Supreme Court of Nigeria.[10] This is followed by the Court of Appeal[11] and then the Federal High Court, the High Court of the Federal Capital Territory, Abuja, the National Industrial Court, the State Customary Court of Appeal/ Customary Court of Appeal, of the Federal Capital Territory, Abuja/Customary Court of Appeal of the State, Sharia Court of Appeal of both the State and the Federal Capital Territory. The last in this descending order is the lower Courts found in states and they include the Magistrate Court, the Customary Court, the Area Court and the Sharia Court.[12] Of all these Courts, it is important to state justices of the superior courts of record in Nigeria are the ones that are appointed to constitute the Governorship Election Petition Tribunal[13], the Federal and State House Election Petition Tribunal and the Court of Appeal sits as Presidential Election Petition Tribunal to determine whether someone has been validly elected to the Office of the President of the Federal Republic of Nigeria. While an appeal for Federal and State Houses Election Petition Tribunal terminates lies to, and terminates at the Court of Appeal[14], the appeal for the Governorship Election Petition Tribunal and the Presidential Election Petition Tribunal terminates at the Supreme Court of Nigeria.

Politicisation: This is a term that derives from politics. Politics, according to Laswell[15] is considered in terms of control of resources – 'who gets what, when and how'. It is a multifaceted word, as it also refers, in a descriptive and non-judgmental facet, as the art or science of government and political principles. However, it can and often carries negative meaning closely related to dishonest practices – running the connotative gamut from good to bad.[16] Therefore, politicisation refers to the action of causing an activity or event to become political in character or nature. Politicisation of the judiciary means making the judiciary, which is supposed to be apolitical in nature and character, political, thereby painting it to be in a bad light.

Judicialisation: Judicialisation derives from judicialise, which means 'to convert or integrate into a judicial system'.[17] Therefore, judicialisation of politics refers to the reliance on courts and judicial means for addressing contentious issues of an outright political nature and significance.[18] Questions of pure politics include electoral processes and outcomes, restorative justice, executive prerogatives, collective identity and nation building - a transition from political question doctrine to juristocracy.[19]

Democracy: The word democracy is one of the most used terms of the political vocabulary; it is very fundamental to the life of human beings in society, and it has undoubtedly given rise to comment and reflection. This notwithstanding,

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[6] Garner B. A., *The Black's Law Dictionary* (West Group St Paul Minn 2009) 294.
[7] Martins I., 'What is the Meaning of Judiciary' <https://www.martinslibrary.blogspot.coming/2013/01/what-is-meaning-of-judiciary.htm> accessed on the 18th September, 2024.
[8] Ibid.
[9] Section 6 of the Constitution of the Federal Republic of Nigeria, 1999, as amended.
[10] See Section 230 of the Constitution of the Federal Republic of Nigeria, 1999m as amended.
[11] Section 237 of the Constitution of the Federal Republic of Nigeria, 1999m as amended.
[12] Temituro, R. 'What Do You Know About Courts in Nigeria? <https://www.zikoko.com/citizen/hierarchy-of-courts-nigeria-today/ > accessed on the 2nd February, 2026.
[13] Section 285 of the Constitution of the federal Republic of Nigeria, 1999, as amended.
[14] Section 239 of the Constitution of the federal Republic of Nigeria, 1999, as amended.
[15] PMB-NCB, *Political Science and Global Health Policy* <https://www.ncbi.nlm.nih.gov> accessed on the 18th September, 2024.
[16] Merriam – Webster Dictionary, *Politics* <https://www.merriam-webster.com> accessed on the 18th September, 2023.
[17] Oxford English Dictionary, Judicialise, v. Meanings, Etymology and More <https://www.oed.com> accessed on the 18th September, 2024.
[18]Oxford Academic, The Judicialisation of Politics in the *Oxford Handbook of Political Science* <https://doi.org/10.1093/oxfordhb/9780199604456.013.0013 > accessed on the 18th September, 2025.
[19] Ibid.

there has not been any text adopted at the world-wide level to by politicians to establish its parameters or scope.[20] The concept is popularly defined as government of the people, by the people and for the people. In a democratic setting, the people are the ones who choose, through voting, their representatives. Nigeria currently practices democracy and by virtue of its constitutional arrangement, elections are conducted in Nigeria after every four years.

3. The Constitutional Mandate of the Judiciary

The Judiciary is a third tier of government saddled with the responsibility of interpreting the law, settlement of disputes and ensuring the maintenance of the rule of law, which is the cornerstone of democratic governance, requiring all individuals, regardless of their rank, influence, or social standing in the society are subjected to the supremacy of the law.[21] In Nigeria, the judiciary is entrusted with the special task of upholding the rule of law amidst a politically and socially intricate landscape.[22] The judicial powers of the federation and the states are enshrined in the Constitution, which establishes the framework for the organisation and functioning of the of the country's judicial system. Section of the Constitution, in particular, provides for the judicial powers of the federation and the states, defines the scope of their authorities and sets the limits of their jurisdictions. This section remains the substratum of the Nigeria's judiciary for the enhancement of its independence and impartiality in settlement of disputes, impartial arbitration and protection of the rights of all citizens. In specific parlance, the Constitution in section 6 provides:

(1) The Judicial powers of the Federation shall be vested in the Courts to which this section relates, being courts established for the Federation.
(2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this constitution, for a state
(3) The Courts to which this section relates, established by this Constitution for the federation and the states, specified in subsection (5)(a) to (1) of this section, shall be the only superior courts of records of record in Nigeria; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

In line with the above provision of the Constitution, the apex court in the land, the Supreme Court of Nigeria, underscores the powers of the judiciary in the case of *Ameachi v INEC*[23] when, per Oguntade JSC, it stated as follows:

> This Court and indeed all of the courts in Nigeria have a duty which flows from a power granted by the constitution of Nigeria to ensure that citizens of Nigeria high and low get the justice which their cases deserve. The powers of the court are derived from the Constitution not at the sufferance or generosity of any other arm of the government of Nigeria .The judiciary like all citizens of this country cannot be a passive on-looker when any person attempts to subvert the administration of justice and will not hesitate to use the power available to it to do justice in the cases before it. Section 6(6)(a) state that the judicial powers vested in accordance with the foregoing provisions of this section…shall extend, notwithstanding anything contrary in this Constitution, to all inherent powers and sanctions of a court of law.

From the foregoing, it goes without saying that the justification for the existence of the Judiciary is founded in section 6(6)(a) of the Constitution of the Federal Republic of Nigeria. In a similar vein, the Judiciary is empowered, under this section, as already stated, to establish election tribunals to handle political matters in Nigeria, such as election to the offices the President of the Federal Republic of Nigeria, Governors, Senators, Members of the Federal House of Representatives, Members of the State House of Assembly, etc.

4. The Nigerian Judiciary and Politics

As already noted above, the Judiciary is empowered to perform many roles, including constitution and establishment of election tribunals to handle political cases in the Nigerian democratic society. This election tribunals set up by the Judiciary are unique in their own way. The matters they handle are referred to as *sui generis*, meaning that they are in a special class of their own. The Supreme Court of Nigeria described the uniqueness of election petitions and captured the same in *APC v PDP*,[24] when it held as follows: 'Proceedings in election petitions are sui generis. They are in a class of their own. They are made to fast track the hearing of the petitions. They are however not designed to spring on surprise on parties.'

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[20] Bassiouni C., Beetham, D. et al, *Democracy: Its Principles and Achievement* (Geneva: Inter-parliamentary Union Texts, 1998) 1.

[21] Weber, J. A. 'Democracy – A Friendly Theory of the Rule of Law' *Hague Journal of Rule of Law* (2024) (16) 339-374 <https://doi.org/10.1007/s40803-02-00240-5 > accessed on the 2nd June, 2026.

[22] Ononye, I. U., Oguekwe, U. D. and Oguekwe A. U. 'Independence of the Judiciary: The Nigerian Experience' *Journal of Public and Private Law* (2020) (10) 61-76. <https://journals.ezenwaohaetorc.org/index.php/UNIZIKJPPL/article/download/1057/1059> accessed on the 6th July, 2026.

[23] (2008) LLJR-SC

[24] (1999) 5 NWLR (Pt. 603) 364 Pg 81 Paras. B.

The foregoing authority emphasises why the Courts must give extra-attention and commitment to election matters, which is far from dabbling into politics because of their involvement in the matters. In *Orji v PDP*[25], the Court of Appeal had this to say of Election Petition Tribunal:

> As rightly submitted by the appellants' learned senior counsel, therefore, with the sui generis nature of election petition case, the procedural rules and the law applicable are distinctly set in the Electoral Act, 2006 (now Electoral Act, 2010) and the Election Tribunal and Court Practice Directions 2007, made pursuant to the 1999 Constitution, Section 246 (1) of the Constitution has given the scope of when an appeal can be brought as of right against a decision of an Election Tribunal.

Suffice it to say, that since the Fourth Republic, the Judiciary was vested with the powers, by the Constitution of the Federal Republic of Nigeria, 1999 and through various Electoral Acts of 2006, 2010 and 2022 to determine electoral disputes which are political in nature. The role of the Election Petition Tribunal and the Court is to protect the sanctity of the political process, which invariably culminates in the election of representatives at all levels of governance in the Nigerian democratic set up. They are meant to ensure that electoral processes adhere to laid down rules and regulations, determining matters arising from elections, and act as watchdog on electoral roads for sustainable democracy. To this end, they play fundamental role in putting the annals of Nigeria's electoral history in proper perspective. The decisions of electoral tribunals are judicial precedents to be followed in subsequent matters and this helps a great deal in shaping electoral jurisprudence in Nigeria. But whether, in point of fact, these are strictly followed raises another fundamental question.

It is, however, very sad to state the Courts, with utmost respect and humility, do not seem to follow judicial precedents in electoral jurisprudence, as there are inconsistencies in decisions of Courts in this area. In expressing his concern on this issue, Okutepa, SAN[26] had to say:

> There are so many inconsistent decisions and precedents in electoral matters and or jurisprudence in Nigeria, coming from the apex Court. This is a fact too notorious to require citation of authorities here. The leadership of the legal profession at various levels are aware of these inconsistent judicial decisions. Many of these inconsistent jurisprudences have created road blocks to not only attainment of justice but certainty of precedents and democratic growth, sustainability and development. Many precedents that are being set in our electoral jurisprudence are in aid of electoral rascality and these are clearly not good attributes of democracy and democratic sustainability.

The above statement by the Learned Silk underscores why judgments of courts in election matters are often revolted and ignored by those who are bound to obey them. This is because there is no justice and logic in those judgments.[27] In fact, most Nigerians today believe that that the Judiciary and our judges are not free from political and societal influences and that justice in Nigeria is for the highest bidders. Whether this is true or not, one cannot conclude. However, in a situation where people begin to think that the Judiciary is compromised, it raises very fundamental questions relating to confidence reposed in the Judiciary, whose basic preoccupation is to ensure that justice is not only done, but seen to have been manifestly done in every case.

5. Judicialisation of Politics

When those who ought to not be the representatives of the people become the representatives, not through the votes of the people, but through a court order, not obtained based upon known and established principles of law, politics is said to be judicialised. This situation undermines the very essence of democracy and makes nonsense the cliché that, in democracy, power resides with the people. There has been recent outcry by the masses that the courts have replaced their candidates in recent times with mind blowing decisions as stated in the following cases:

Senator Hope Uzodinma & anor v. Hon Emeka Ihedioha & 2 ors[28]: In this case, Senator Hope who was a third runner up brought a petition to challenge the outcome of the Imo's Governorship election where Hon. Emeka Ihedioha had won the election, the first and second runner up did not file a petition and since the Supreme Court of Nigeria had found in the Appellant's favour, the election of the respondent was set aside and the appellant was declared the winner.

[25] 14 NWLR (Pt. 116) 310.
[26] Okutepa, J. S. 'The Role of the Judiciary in Nigeria's Democratic Sustainability' (Being a Paper presented at the First International Advisory Council (IPAC) Roundtable Held on the 8th August, 2024, at the Ladi Kawali Hall, Abuja Continental Hotel, Abuja FCT).
[27] Ibid.
[28] (2020) LPELR- 50260 (SC).

This decision incurred massive public rage and caused monumental legal pandemonium and hullabaloo. In fact, Hope Uzodinma was even nicknamed 'Supreme Court Governor' by the electorate.[29]

Lawal v Machina[30]: In this case, the Respondent who had contested for the APC primary elections for Yobe North, which was adequately supervised by INEC but his party (the APC) substituted his name with that of the Appellant to INEC. This resulted in him approaching the trial and penultimate courts for legal redress. The courts agreed with his argument and ordered that his name be replaced in the INEC's register with that of the Appellant. However, the Supreme Court overturned the concurrent decisions of the two lower courts and allowed the Appellant to continue as the senatorial candidate, purely based on ground of technicality. This is quite sad.

Plateau State National and State Houses: The Plateau State political space, in the aftermath of the 2023 General elections, received judicial whips that sent all the PDP members of both National and State Houses of Assembly packing, despite their gallant and massive victories at the polls. It was rather unfortunate that despite the provisions of the Electoral Act that restricts anyone who did not participate in the primary elections from challenging same at the petitions and also such complaints coming too late in the day after the ninety days (90) stipulated period, the Court of Appeal still went ahead to fire those legislators. The decisions of the Court of Appeal in the respective cases have negatively impacted the mind of the average voter on the Plateau and given the Judiciary a very bad image.[31]

6. Reasons for Judicialisation of Politics

It is a truism that the Nigerian judiciary system faces and continues to face challenges that impede its effectiveness and undermine the level of public confidence reposed in it by the Nigerian citizens. This is most unfortunate, and the situation has undoubtedly eroded the cherished value for which the Nigerian Judiciary has always been known for – the last hope of the common man. Some of the challenges are discussed below:

Bribery and Corruption: This is, no doubt, is one of the reasons for the judicalisation of politics in Nigeria. There have been allegations of bribery and corruption against some judges. In fact, in the NJC has had to discipline some Judges recently on the allegations of corruption. Most times, the desperate politicians are the ones who put the Judges in this mess.[32] The situation is so alarming that the confidence in the Judiciary is being eroded. In *A. G. Ondo State v A. G Federation*[33], Oputa, JSC, openly stated this on the allegation of corruption against Judges:

> It is quite plain that the issue of corruption in Nigerian society has gone beyond our borders; it is no more a local affair. It is a national malaise which must be tackled by the Government of the Federal Republic. These disastrous consequences of the evil practice of corruption have taken this nation into the list of the most corrupt nations on earth.

The above holding by His Lordship holds sway with regard to the happenings in the Judiciary which is supposed to the last hope of the common man, from where he can go and obtain justice. Some various act of corruption in the Judiciary includes indiscriminate issuance of *ex parte* orders in election matters[34], acceptance of gifts by some judges from politicians, amongst others.

Executive influence: The executive arm of the government has always been known to interfere with the judicial process, thereby compromising the judiciary's ability to make decisions without bias or pressure.[35] Executive interference in judicial appointments is one problem that is known in Nigeria. Some of the area of interference include appointment, promotion, termination of employment of judicial officers, remuneration among others, all of which have hampered the independence of the Judiciary. We have had instances where the Governors have removed the Chief Judges of state because they are not doing their bidding[36]. Similarly, under the Buhari administration, the president purportedly suspended the then Chief Justice of Nigeria, Hon. Justice Walter Onnoghen. This suspension eventually led to his trial, prosecution and dismissal. This action of the executive arm of government exhibited by the

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[29] Godwin Emeka Ngwu & anor, The Supreme Court's decision in *Senator Hope Uzodimna & All Progressive Party (APC) v Hon. Emeka Ihedioha, Peoples Democratic Party (PDP) & Independent National Electoral Commission (INEC):* A case of corruption or preponderance of evidence. Internal Journal of Criminal, Common and Statutory Law,available at <www.criminallawjournal.org> last accessed on the 20/9/2024.

[30] SC/CV/1689/2022

[31] Seriki Adinoyin, Sacked Plateau PDP Lawmakers: How Court of Appeal Judges Angrily Dismissed our Applications, Published in This Day Newspaper on the 10th March, 2024 available at <https://thisdaylive.com>last accessed on the 20/9/2024.

[32] Ojo EO and Adebajo PF 'Can Nigeria's Nascent Democracy Survive?' Journal *of Sustainable Development in Africa* (2009) (11)(1) 1-17.

[33]2002 10 NSCQR 1034.

[34] *Enekwe v IMB Ltd* (1997) 10 NWLR (Pt. 562) 603.

[35] Abdulahi, I., 'Independence of the Judiciary in Nigeria: A Myth or Reality? *International Journal of Public Administration and Management* (2014) (2) (3) 55-66.

[36] Edosa E., and Fenemigho, E. O., 'The Judiciary as an Organ of Government' *African Research Review* (2014) (8) (3) 92-101.

late former President of Nigeria generated a lot of hues and cries in Nigeria, yet nothing happened.[37] The issue was whether the president, who was the head of one arm of government, had the power to suspend the Chief Justice of Nigeria, who was the head of another arm of government. By section 292 of the Constitution, a judicial officer, inclusive of the Chief Justice of Nigeria, can only be removed from office by the President acting on two-thirds majority of the National Assembly or as a result of infirmity of the mind or body or misconduct or contravention of the Code of conduct. In a nutshell, a sitting Chief Justice of Nigeria can only be removed in office by the president in accordance with the laid down procedures stated above. Quite unfortunately, this was not the case.

> If all the three arms of government are equal, and the doctrine of separation of power is functional and operation, no head of any of the arms of government has the power to suspend the head of another arm, except there is a law that expressly stated so. The success of the purported exercise of power by the President of Nigeria at the time under review negatively impacted on the independence of judiciary, making the institution subservient to the executive arm of government. The act also created fear in the mind of judicial officers and, if they have to aspire to the higher bench or to preserve their jobs, then they must dance to the tune of the executive.[38]

Lack of independence: Judicial independence is a sine qua non to the smooth and effective operation of the rule of law. Ideally, judicial officers are meant to be independent, impartial and insulated from outside merits of the case. Judicial officers exercise true independence when the outcome of their decisions is on determined or influenced by those who yield political or economic powers[39] Lack of independence of judiciary has resulted in the judicial officers succumbing to those external influences because their employment, promotion etc. are indirectly affected by those negative external influences. A truly independent judicial system will be free from all those influences.

Poor remuneration of judicial officers: Prior to the call for the review of salaries of judicial officers recently, it was last reviewed in 2007 which is 17 years later in the face of the continuous decline in the economic value of the Nigerian Naira[40]. This has made the judicial officers to be at the mercy of those who has access to abundant economic powers which has influenced the outcome of their decisions over time. The executive and legislative arms of government have more access to the national treasury than the judicial officers. This gives them economic power at the expense of the Judiciary. In other developed climes, the court system is well protected and works well. For example, in *Bush v Gore*[41], the election petition filed by gore against Bush was determined and disposed of before he was sworn into office for his first term in office. This indubitably shows a system that works. In fact, even with the review of salaries of judges by three hundred percent by the current Tinubu administration, the funds are still inadequate because of the inflation rate and the high costs of commodities.[42]

Nepotism and Tribalism: As the values of Nigeria constantly diminish by the day, the sad reality is that political officers and judicial officers are daily sacrificing national values for selfish and sentimental interests. Some judicial officers are aware that their appointment came solely on the platform of tribalism and nepotism, hence they ensure while serving, that the interest of their tribe and family, or any other interest that brought them is protected, instead of upholding the integrity of the Judiciary[43].

Delay in the judicial process: The judicial process in Nigeria has come under serious criticism for often being slow and inefficient, which inevitably leads to prolonged period before cases concluded. These delays oftentimes have deleterious effects on the parties to the case, especially when the case is a criminal case. Even with the Administration of Criminal Justice Act 2015, which many states have domesticated and passed into law as laws of their states, the delays still exist. Within the realm of commercial law, delays cause economic losses and undermine the social situations of victims. Further to this, delays in the judicial process erode public confidence in the courts and discourage people from approaching the courts to ventilate their grievances.[44] Also, the courts themselves are not left out when

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[37] Okakwu, E., 'What the Law Says on Removal of chief Justice of Nigeria' <https://www.premiumtimesng.com> accessed on the 4th April, 2026.

[38] Chukwuma, O., ''The Judiciary and Presidential Democracy in Nigeria: A Synthetic Analysis'' *African Journal of Politics and administrative Studies* (2023) (16) (2) 735-747 <https://doi.org/10/4314/ajpas.v16i2.38 > accessed on the 5th May, 2026.

[39] Omar E. G., 'Lack of Judicial Independence and its impact on Transnational and International Litigations' *Law and Business Review* (2012) (29) 18.

[40] Dirisu Yakub, Judges Salaries reviewed 17 years ago, says AGF published in Punch Newspaper on the 21st May 2024 <www.punchng.com>l accessed on the 20th February, 2026.

[41] 1531 U.S. 1 (2000).

[42] Kayode, Y. A. and Afolabi, A., 'The Judiciary and the Rule of Law'' *Journal of International Law and Jurisprudence* (2023) (8) (1) 375-396.

[43] Wale Igbintade, 'Nepotism as a Threat to Judicial Independence' This Day Newspaper (2024) <www.thisdaylive>last accessed on the 10th July, 2026.

[44] Ibid.

the judicial process is delayed; they often have backlog of cases which invariably impact negatively on the parties to the case.[45]

7. Implication for Democracy

As the judicialisation of democracy gains more popularity in Nigeria, democratic principles and practice die gradually. This has very disastrous consequences on the polity and, with time, democracy will no longer be tolerated in Nigeria, even though is it is reputed as the best form of government globally. Some of the notable implications are discussed below:

Voter apathy: As the judiciary continues to delve into the political atmosphere by substituting politicians that won their election at the polls and replacing them with those appointed by the courts, the more the interests of the electorate deplete and their passion in participating in electoral process decline over time. If the voters know that their collective will be overrode in the courts, then they would not see the need to vote. Voters' apathy has posed a challenge to the political system. For our democracy to thrive and blossom, the electoral process ought to be truly democratic. In other words, the decisions of the electorate must be reflected and not those of judges in courts after Court decisions.[46].

Creating a platform for subversion of the will the electorate: A typical election should ensure that the candidate appeals to the interest of the electorate to garner their votes. However, with the recent dive of the Judiciary in the political atmosphere, the will of the electorate remains subverted, as the candidates that are representing them were not the ones they voted, but those 'supposedly given to them by the Courts'.[47]

Diminished hope in the Judiciary: Most people feel that the political decisions that are dished out from the courts have left much to be desired. They have construed and formed a mentality that the courts are places where the highest bidder gets judgment as against the legal wrong being remedied.[48]

Public Trust Deficit: Suffice it to say that a judiciary of undisputed integrity is the cornerstone of democracy. This is because it enhances compliance with democracy and the rule of law. Even when all other protections fail, such a judiciary provides the citizens with the requisite protective mechanism to against any from encroachments on their rights and freedoms under the law. In fact, it is an understatement to state that the judiciary, within the prism of international law, is the great bastion of the rule of law throughout the world. However, where the judiciary is unable to provide the citizens with the requisite protection as provided by law, public trust and confidence is eroded and this goes to question the very essence of its existence. In Nigeria, this confidence is gradually fading, thereby impacting negatively on the growth and development of democracy.[49]

Weakened Separation of Powers: Democracy thrives where the doctrine of separation of powers is effective. The true expression of the doctrine of separation of powers means that every arm of government does its own duty as prescribed by law. Each arm of government must see the law as supreme and, therefore, the doctrine can only thrive in a democratic setting where there is rule of law.[50] Lord Goddard, in *R v National Insurance Commissioners*[51] emphasised that, in the exercise of judicial powers, especially in the interpretation of the statute, the court's bounden duty is to interpret the words of the statute in their natural and ordinary meaning. This is so because the judge does not have the vires to fill the gaps in the law, but where the law made by the legislature is vague and nebulous, it is the duty of the court to draw the attention of the legislature to it and, in deserving cases, strike it out, when it affects the rights of citizens.[52] It is, however, unfortunate that in Nigeria, especially in this democratic dispensation, the rule of law and the principle of separation of powers are not strictly observed. For example, the president and the governors have influence over who becomes a judge in Nigeria and politicians often push loyal individuals into powerful judicial seats and this make it difficult for judges to hand own judgments that will affect their interest.[53]

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[45] Ibid.

[46] Celestine O. O. et al, 'Two Decades of Electoral Democracy: Voter's Apathy and Democratization Process in Nigeria' *Social Sciences and Education Research Review* (2022) (9) <https://doi.org/10.5281/zenodo.6794638> accessed on the 8th May, 2026.

[47] Ibid.

[48]Ibid.

[49] *Baker v Carr*, 369 U.S. 186, 267 (1962).

[50] The first modern conception of this doctrine was put forward by the French philosopher, Baron de Montesquieu in 1748 in his book titled 'The Spirit of Laws'.

[51] (1972) A. C. 914

[52] *St Melons v Newport Corporation* (1950) 2 All E. R. 1236.

[53] For example, the housing project for judges by the Federal Government of Nigeria, which was commission sometime in February, 2026, was greeted with a lot vituperations by some Nigerians. The put forward the argument that it was meant to influence the judges to toe the line of government in respect of cases against the government brought before them. The Minister of Information, Honourable Nyesom Wike, dismissed the claims as false during the commissioning exercise. See '' Wike Inspects

8. Conclusion and Recommendations

In conclusion, it is pertinent to state that the Nigerian judiciary stands at a defining crossroads – one that will determine whether it remains a veritable tool for constitutional democracy or continues to on a voyage of descent into irrelevance and public distrust. The Nigerian judiciary holds the fundamental key to the growth, development and sustenance of democracy. This is so because its decisions can encourage or mar the growth, development and sustenance of democracy in Nigeria. For the judiciary to achieve its goal of dispensing justice, without fear or favour in election matters, it must shun all forms of politicisation and disallow itself from being used by politicians to foist on the citizenry people who are unpopular in the elections. It is only when that is done that democracy will be sustained.

In the light of the foregoing, the following recommendations become pertinent: The appointment of judicial officers should be done based on merit and must prioritise competence and integrity over other considerations such as sectionalism, nepotism and political loyalty. There should be ethical training and character-based recruitment for judicial staff, so every arm of the judiciary reflects the values of justice, equity, fairness and fair play. The members of the National Judicial Council and the various State Judicial Councils should be elected by members of Nigerian Bar Association (NBA) for a fixed period of time. Judicial officers should be properly remunerated. Thankfully, that has been substantially taken care of by the recent Act of the National Assembly on Remuneration of Judges. There should be participatory disciplinary systems that involve civil society and legal experts in holding judges accountable to, and responsible for their judicial actions.

Judges' Quarters, Denies Using Housing to Buy Over Judges'' Punch Newspapers 5th February, 2026 <https://punchng.com/wike-inspects-judges-quarters-denies-using-housing-to-buy-over-judges> accessed on the 10th March, 2026.