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JUDICIALIZATION OF POLITICS IN NIGERIA: A REVIEW OF SELECTED
CASES IN THE 2019 GENERAL ELECTIONS

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Abstract

The judicialization of politics in Nigeria's political history particularly as demonstrated in the 2019 general elections, has substantially altered the democratic process by transferring electoral decision-making power from the electorate to the judiciary. This study seeks to interrogate the growing trend of over-reliance on judicial intervention in resolving electoral disputes, analyzing landmark cases such as Zamfara, Bayelsa, and Imo States, where courts overturned election results, effectively nullifying the electorate's will. Using an exploratory research design, the paper draws from secondary sources, including legal reports, INEC data, and scholarly literature, to assess the implications of judicialization on Nigeria's democratic consolidation. Findings reveal that excessive judicial interference undermines electoral integrity, fosters voter apathy, and erodes public trust in democracy. The study highlights how judicial decisions often reflect political maneuvering rather than legal merit, as seen in cases where candidates who lost elections were declared winners through court rulings. Furthermore, the financial burden of litigation amounting to billions of naira, places additional strain on Nigeria's electoral system. While the judiciary plays a crucial role in upholding electoral justice, its overreach risks distorting democratic principles by substituting judicial pronouncements for popular mandates. The paper concludes that unchecked judicialization threatens Nigeria's nascent democracy by diminishing the sanctity of elections and encouraging elite manipulation of the legal system. Recommendations include electoral reforms to strengthen INEC's independence to curb frivolous litigation, stricter judicial accountability and reforms that forbids the court from upturning peoples electoral decisions. Addressing these challenges will restore voter confidence and ensure that electoral outcomes reflect the genuine will of the people rather than judicial imposition.

Keywords: Judicialization of politics, electoral disputes, 2019 elections, judicial democracy, Nigeria, Supreme Court.

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Elections remain one of the cardinal pillars of institutional checks of the powers of the elected modern democracy as it ably serves to promote one officials and an independent judiciary among others of its main tenets- which is the availability of the (Diamond 2008:22, cited in Omotola, 2021). Very freedom of choice to citizens in terms of choice of important among these network of structures is the decisions and cause of actions on one hand, and the court which facilitates the resolution of disputes freedom of the people to freely and periodically among citizens; between citizens and government; choose those that govern them (Omotola, 2021). or among the other arms of government or between The concept of election is described as the main the levels of government.

stay, spine, major pillar, corner stone, and an indispensable instrument of democracy.

Nigeria's return to democratic rule in 1999, came with a truck-load of conflicts associated with the

Elections are the determinant of who gets power, quest for political offices by citizen. The court no when and how as Almond & Verba (1963) describes doubt has arguably lived up to it roles in resolving it as the most needful tool in any representative the political conflicts brought before it, thus, the democracy. Primarily elections perform two court has remained a key player in the political cardinal functions to begin with it enables citizens development of the country in the fourth republic to partake in the selection of their candidates for that commenced in 1999, as it has fearlessly governance and secondly, it also gives the candidate through her decision chatted ways for the with the platform to emerge as legitimately elected democratic growth of the country. This view was leaders via a free and fair contest, interestingly he canvassed by Sambo, 2018 as he asserts that: "The noted that Nigeria is far from achieving this level of judiciary in Nigeria has been visible in shaping the electoral stability (Obianyo & Emesibe, 2015). dynamics of politics (Sambo, 2018). Declaratively,

In emphasising the uncompromising usefulness of elections to the survival of democracy, Eldman(1964) cited in Olorunsuwa, 2019) underscores the possibility of having elections without democracy, but it is asserted that it's unthinkable impossible to have democracy without elections; hence free, fair and transparent election is central to the functioning of , and are strongly connected to modern democracy to the very extent that democracy is seen by some scholars as revolving around elections (Singh and Mishra 1991 and Almond, etal, 2004:63 cited in Omotola, 2021). "judicialisation, has continued its relevance in courts in the modern day; perhaps because most modern constitutions now give the courts power to check the excesses of other coordinate arms of government (Sambo, 2011) cited in Sambo 2025. For instance, the legal battle between (former) president Obasanjo and(his vice) Atiku when the former declared the seat of the later vacant on the account of the later cross-carpeting from People Democratic Party(PDP) to Action Congress(AC) to pursue his presidential ambition in 2006. The court declared the act "unconstitutional, illegal, null and void and of no effect whatsoever"(Aljasera,15th March, 2007). In another landmark supreme court ruling in December 2004, involving the withholding of the local government allocations to local government areas in Lagos State by the former president; and the then Lagos State governor, Bola Tinubu as the later refused to rescind his decision for the creation of 37 additional local government

Democracy however entails much more than the idea of periodic elections where the people are ultimately engaged in deciding who governs them, but it includes a network of activities and structures (the press, legislature, political parties and civil societies organisations(CLOs) and the judiciary etc.) that guarantee freedom of choice in term of decision making, freedom of speech, openness and equality among citizens, accountability and

areas in Lagos(Wikileaks, 2005). The judiciary has indeed continued to sustain Nigerian's democracy.

Worrisome however, is the over-reliance on the court for resolution of election related conflicts which seems to have transfer the power of choice of who governs from the people to the court. This trend is what Omotola (2021) refers to as the judicialisation of politics. The trend is fast growing into a major global and domestic political phenomenon (Omotola, 2021; Hirschl, 2011; Vallinder, 1994), which has led to a growing concern among scholars as the courts appear to be the (new) most important determinant of who gets elected as against the normal democratic trend of having the people determine who governs them. Increasing cases abound of people who ordinary lost gubernatorial elections but got to power through the machinations of courts. Bello Matawalle, Hope Uzodima, Douya Diri of Zamfara, Imo and Bayelsa States provide us a potent case studies.

It is therefore in view of the foregoing that this paper, while relying on the exploratory technique, seeks to interrogate the heavy reliance on the judiciary in the resolution of the election related disputes in the 2019 general elections and the implication on Nigeria's democratic consolidation, taking into cognizance the power of choice that resides in the citizen vis-a-vis new trend of judicially pronounced electoral victories that abound. Therefore, data from secondary sources like existing literature, INEC reports, newspapers, journals and electronic sources as well as legal reports were used. The major causes of the over reliance on legal resolution of election related matters are also examined. This is to provide a seeming solution to the phenomenon which is already beginning to take a negative toll on Nigeria's nascent democracy.

LITERATUREREVIEW:

COMCEPTUALISING ELECTION

Election as a concept occupies a central place in field of political science and democratic theory. It a formal decision-making process by which a population selects individuals to hold public office. Elections serve as a vital mechanism through which modern representative democracies function, allowing citizens to express preferences for policies, parties, and candidates. The act of voting embodies both the ideals of popular sovereignty and political legitimacy.

Definitional Perspectives

From a basic definitional standpoint, Heywood (2013) defines election as a mechanism through which members of a community select individuals to represent their interests in government. Similarly, Schumpeter (1942) famously conceptualized democracy as an "institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote. Schumpeter further conceptualized elections as a competitive process where elites vie for public approval, defining democracy minimally as a system in which leaders are selected through free and fair elections. In underscoring the importance of election, this minimalist view sees elections as that essential process that distinguishes democratic regimes from authoritarian ones. According to Dahl (1989), in concession with the minimalist perspectives, concludes that elections must be free, fair, and competitive to be considered democratic. This implies the existence of universal suffrage, equal voting rights, and an enabling environment

for opposition parties and candidates to contest power.

Elections and Representation

The conceptual and theoretical linkage between elections and 'political representation' is foundational and

democracy is embedded in elections. In this framework, elected representatives act on behalf of constituents, ideally translating public preferences into policy outcomes (Pitkin, 1967). However, it should therefore be noted that the relationship between elections and effective representation is not always given. Factors such as electoral system design, party dominance, and voter suppression, excessive judicial interference as seen in the Nigeria's context can distort the 'representativeness' of electoral outcomes. Hence, scholars argue that the conceptualization of elections must go beyond the mere casting of votes to include institutional safeguards that ensure accountability and responsiveness. It must enshrine a system that permits the voting populace the opportunity to fire and hire at will their representatives in government. In other words electoral victories must be only at the behest of the people and not the courts. Election can be therefore construed to mean all networks of events that permits the citizenry to participate in the decision of who governs them, usually through the processes of voting.

unequivocal, as elections serve as the conduit through which the governed consent to be governed flows, transferring authority to elected officials in a system often described as 'representative

Conceptualizing elections involves understanding them not just as procedural events, but as complex, multifaceted institutions embedded within broader political and social systems that are instruments of choice, accountability, and legitimacy, and also as arenas of contestation, manipulation, and reform. Elections remain central to democracy but face evolving challenges in Nigeria that must be tamed in order to permit the democratic growth of the polity. While electoral systems shape political outcomes, their effectiveness depends on institutional safeguards that must be provided to fight against the conventional and new trends electoral challenges. Threats like disinformation, voter suppression, and authoritarian subversion though require robust countermeasures, but perhaps, are not as dangerous as the super imposing postures of the judiciary in deciding elections outcomes in Nigeria's fourth republic.

JUDICIALISATION OF POLITICS IN NIGERIA : A CONCEPTUAL REVIEW

Omotola (2021) perhaps most aptly captures the concept of judicialisation of politics as being a "situation where there are more judicial, rather than, say political party or social resolution of political conflicts". Judicialization of politics occurs when the conventional functions of the judiciary (settlement of civil and criminal disputes,

interpretation of laws as well as the review of administrative actions (Omotola, 2021) wear a more political than legal dimension that places it at the apex of determining matters of political exigencies. To Domingo (2005), the judicialization of politics firstly indicates a greater presence of judicial processes and court rulings in political and social life. Secondly, it is a demonstration that political, social, or state-society conflict is mostly resolved in the courts of law.

Thirdly, it is the consequence of the process by which political and/ or social actors increasingly see, and take advantage of resulting to legal means through the rulings of judges to advance their (political, social or economic) interests. Judicialization of politics to Vallinder (1994), is the expansion of the province of the court or the judges at the expense of the politicians and all the administrators, that is, the transfer of (political) decision-making rights from the parliament, the executive or the civil service to the court. In another word, it is the spread of the judicial decision-making methods outside the conventional judicial province. Vallinder further states that judicilisation especially involves turn something (political) into a form of judicial process. Hirschl (2011) views the phenomenon as the reliance on courts and judicial means for the resolution of issues, public policy related matters, and political controversies. The judiciary armed with judicial review powers of the actions of other arms of government, courts (globally) have been frequently invited to resolve political and other sundry issues. Sambo(2025) equates judicilazaion of politics to judicial review of political events that has recently assumed national and global prominence in our polity, going further, he concludes that the challenge of sustaining democratic practice requires that the

judiciary must be very careful with ruling made concerning political related conflicts brought before it for adjudication.

Scholars have elucidated that the concept of judicialization of politics is an embodiment of (democratic) strength and weakness as it has the potent ability to fast-track democratic consolidation on one hand and it could also diminish its gains on the other hand, especially, when judicial decisions are given for reasons other than remedying the wrongs and upholding justice. On the positive side, given the fact that the only institution saddled with responsibilities of dispute resolution and adjudication of matters is the court, the court has over the years through this role assist in the consolidation of democracy in Nigeria, but Omotola(2021) submits that if judicialisation of politics is unchecked, it has the capacity of compromising the institutional integrity and independence of the courts which could also ably hinder the effective performance of the functions of the court.

In the opinion of Ugochukwu (2011), the concept is a double edged sword as it embodies the mixture of sweetness and sourness, to him, judicialisation of politics on one hand is a germane tool in democratic consolidation, and on another it is a tool for sponsored exploitation and anarchy in a democratic toga. Waltman(1996) shares a similar view with Ugochukwu (2011) on the concept. To Waltman (1996) judicialization of politics is a “dual process”. Firstly, it is a process in which the judiciary (the bar and the bench) maintain a hegemony of influence in the making of governments policies expressed in past, present and subsequent public policies by the executive and legislative arms of government. Secondly, it’s a situation where legalism overrides and dominates non-judicial decisions and decision making forums that

may or may not be clearly stipulated in the constitution such as the questions of morality and highly placed values. The involvement of the court in Nigeria in pre-election as well as post-election litigation empowers the courts beyond the ideals of executive and legislature as the court through its decisions decides the fate of the other arms of government thereby overriding the general will of the people in electoral matters (Hirschl, 2004).

Post-election conflicts are usually resolved by a constitutionally empowered and specially constituted election tribunals (Section 239). Electoral tribunal is a part of Nigeria's electoral process that provides a mechanism designed to address the seemingly perceived irregularities in the electoral process. It is a strategically germane judicial instrument designed to offer opportunities for redress against electoral grouse in order to strengthen the country's democracy (Nwagboso, 2011). In the view of Aaron (2016), "the outcomes of the courts may not be the desired result or for the most part, best for democracy". Similarly, some scholars (Waltman, 1996; Goldstein, Kahler, Keohane & Slaughteret, 2001; Hirschl, 2002; Ferejohn, 2002; Shapiro and Alec, 2002), agree that the outcome of judicialization may just be a total creation and representation of a few elites who wield either economic or political controls over the judiciary. As embedded in Section 6 of the 1999 Constitution of the Federal Republic of Nigeria, the court is saddled with the primary function of adjudication (not necessarily limited to criminal and civil matters) but the scope of the role has been expanded of late in the Fourth Republic as the polity has witnessed an increased roles of the courts and a more pronounced activism in the judiciary to capture issues of selection and election of candidates to fill political offices, election

oversight, corruption monitoring, transitional justice claims, human rights enforcement and legislative compliance with constitutional provisions and standards (Yusuf, 2009). The ability of the Judicial arm of government to affect political situations is complex and sometime under-researched.

JUDICIALISATION OF POLITICS IN NIGERIA: A HISTORICAL ANALYSIS OF ELECTORAL LITIGATED DISPUTES

The 1979-1983 Experience

The Nigeria's Second Republic (1979-1983) birthed the first rounds of judicial electoral disputes in Nigeria and by extension the judicialisation of politics in Nigeria. The first however in the series was the highly disputed presidential election of August 11, 1979 that produced Alhaji Shehu Shagari of the Nigerian Peoples Party (NPN). The presidential poll was challenged in court by the then first runner up in the said election, Chief Obafemi Awolowo of the Unity Party of Nigeria (UPN) (Omotola, 2021). The decision of the Supreme Court on the case which bordered on the interpretation of section 34(2) of the Electoral Act of 1977 viz-a- viz the 2/3 of 19 state as constitutional requirement for winning the election. The decision of the Supreme Court which upheld the 12 $\frac{2}{3}$ of 19 states as declared by the Federal Electoral Commission (FEDECO) was widely criticized (Omotola, 2021 and Oni, 2020). In the 1983 elections, the judiciary had another round of outing as regards electoral decision. This time around, the elections of Victor Olunloyo and Akin Omoboriowo of the defunct Oyo and Ondo States respectively in western Nigeria both of

NPN were annulled and victory returned to Adekunle Ajasin and Bola Ige of UPN respectively (Oni, 2020). Even though there were other electoral litigation like, Alhaji Waziri Ibrahim the Greater Nigerian Peoples Party's (GNPP) presidential candidate who went to court to challenge Shagari's victory, even though he lost the case as the Supreme Court upheld the judgments of the High Court and the Appeal Court respectively in dismissing his suit seeking to nullify Shagari's re-election (Law Global Hub, Vlex), Jim Nwobodo vs C.C. Onoh in Anambra State, Unogo vs Aku in Beune State among others. Only the petitions of Chief Michael Adekunle Ajasin and Bola Ige succeeded and were declared winners of the said elections on the 6th and 13th of January, 1984 respectively (Judy.legal, Nigerian Legal Information Institute). Apart from core electoral grounds, the second republic was a hotbed for political manipulation and judicialisation of the polity. The appointment of Justice Victor Ovie Whiskey who was the Chief Justice of the then Bendel State as the FEDCO chairman was challenged up till the Supreme Court by Senator Abraham Adesanya insisting that his appointment as head of the election management body was unconstitutional. After a lot of legal engineering, Whiskey's appointment was sustained by the Supreme Court on the grounds that the appellants lacked the locus standi to challenge the appointment of the judge, even though a High Court has earlier nullified the appointment of the judge (Oni, 2020; Taiwo, 2009).

The Aborted 3rd Republic(1983)

The aborted 3rd republic started on the hills of enthusiasm, hope and strong belief among citizen and politicians that Nigeria was indeed returning to the part of democracy (Govinfo). This is because of the combined external and internal pressures consistently being mounted on the then military ruler, General Babangida, who also showed a lot of commitments to returning the country to democracy. Major-General Ibrahim Babangida, in January 1986 announced his willingness to hand over power to a democratically-elected government in October 1990; but failed to meet the 1990 deadline, he subsequently announced transition programme for the transfer of power by 1992 (Inter-Parliamentary Union, 1992). This programme included elections into the offices of state governors, state houses of assembly held on the 14th of December 1991 (Directorate of Immigration and Refugee Board, 1995) and a bicameral federal legislature elections, which was held on 4th of July 1992 (IPU, 1992).

The first seeming judicial influence in the political activities in the aborted 3rd republic was in December 1991, when thirteen politicians including former governors, senators and ministers (that have been previously banned by Babangida from political activities) were arrested for violating the ban on participation in politics. They were alleged for providing sponsorship to candidates for state governorship elections; they were consequently detained in police custody until they reappear before the Transition to Civilian Rule Tribunal on January 16, 1992 on the order of the tribunal (Human Rights Watch, 1992).

The abortion of the Babangida's transition programme of 1992-1993(the third republic) was premised on the overt over judicialisation cum political manoeuvring of the polity and gross abuse of the judiciary. This was demonstrated in the frivolous court injunctions sought and obtained by the Authur Nzribe led Association for Better Nigeria (ABN). ABN had failed to stop the election from holding through a court injunction granted by a Justice of Abuja High Court, Bassey Ikpeme on the 10th of June, 1993(Jega, 2018). Nzeribe went back to court to obtain another injunction from Justice Dahiru Saleh to halt the announcement of presidential election even though some states election results had been announced by the National Electoral Commission(NEC) (Jega, 2018; Obi-Ani and Obi-Ani cited in Oni, 2020 and Omotola, 2021). The unnecessary meddling of the court in the electoral process helped the unwilling posture of Babangida not to see the transition programme to its logical conclusion, hence the transition was truncated and the country further dragged into another five years of military rule. This was captured by Obi- Ani (2012) as he alludes as follows: *"the judiciary became the means in the hands of political and military elites to obtain ex parte injunctions to achieve political ends"*.

The Fourth Republic Experience (1999-2015)

The 1999 general election that ushered the Fourth Republic was more of a compensation to the Yoruba people for the annulment of the 1993 presidential election that was won by a Yoruba man, Chief M.K.O. Abiola. This was

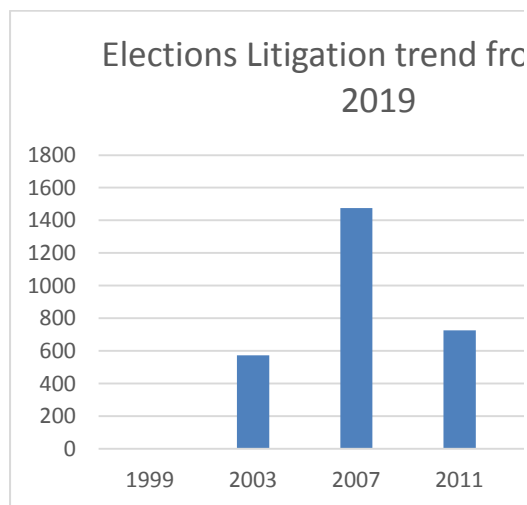
reflected by the actions of the political parties as they featured presidential candidates of Yoruba extractions (Yagboyaju, 2011, Oni, 2020). The election of 1999 was described as free and fair elections and largely reflected the wish of the masses, this perhaps was why the results weren't contested in the court of law (Omotola, 2010; Yagboyaju, 2003; Omenma,2015; Oni, 2020). However, the preceding general elections of 2003, 2007, 2011, 2015 and 2019 elections were not without recourse to the court of law for litigation against perceived electoral ills. For instance, 2003 general election had 574 cases (Ugochukwu,2011, Omenma (2019). The 2007 general election was adjudged as the worst election in the history of Nigeria (Nwagboso, 2011), hence it recorded the highest electoral litigation totaling 1,282 cases (Omotola, 2021), in 2011, 727 cases were instituted, and 663 cases were recorded against the 2015 elections.

The total number of constituencies and election petitions in Nigeria.

Election year	Number of Election petitions
1999	Nil
2003	574
2007	1475
2011	727
2015	663
2019	766

Source: Daily trust Newspaper (3/1/2020)

Fig. 1. A graphical representation of election petitions in Nigeria from 1999-2019



FINDINGS AND DISCUSSION: JUDICIALISATION OF POLITICS IN THE 2019 ELECTIONS -SOME SELECTED CASES

The 2019 general election is perhaps the most competitive and keenly contested election in Nigeria's political history, as the election was contested by a total number of 91 registered political parties with a total voting population of 84,004,084. It is revealed that Presidential election was contested by a total of 73 candidates, while the Governorship election had a total of 1, 068 candidates jostling to be governors in 29 States of the federation. The 109 Senatorial seats were contested by 1, 904 candidates, and the 360 seats in the House of Representatives had a total of 4, 680 candidates in the race to represent their various federal constituencies. The 991 State Constituency elections was contested by a total of 14, 583 candidates. The 68 Area

Council seats in the Federal Capital Territory (chairmanship and councillorship) was contested by 806 candidates with 105 Chairmanship candidates and 701 Councillorship candidates across party lines (Nwachukwu, 2019). The 2019 general election recorded over 1,600 petitions (with pre-election litigation climbing as high as 809 and post-election cases stand at about 807 cases (Iroanusi, 2019, Jimoh and Akubo, 2020).

There is a huge increase in the total number of litigation in the 2019 general elections as compared to the 2015 general election as the available records show that the 2015 election had 663 litigation and 2019 election recorded a higher level of post-electoral litigation of about 807 cases (Omotola, 2021). The court, hence is fast assuming the role of the electorate in the decision of who governs. For instance, INEC withdrew 64 certificates of return and handed same to candidate that won through the court in the wake of the 2019 election (Dele-Adedeji, 2020). Some of the key electoral decisions from the 2019 general election that will redefine the history of electoral justice in Nigeria are the Supreme Court decisions on Zamfara, Bayelsa and Imo States.

Disregarding the Law and Peoples' Will for Legal Exigency: The Zamfara Political Judgement

In the case of Zamfara State, where protracted intra-party conflict caused by the absence of intra-party democracy within the All Progressive Congress resulted into the intervention of, and declaration of all the PDP candidates that lost in the general election as winners by the Supreme Court(Premium Times Newspaper May 28, 2019).

Flabbergasting and perplexing as it was, Olorunsuwa, Oyewole, Odekunle, and Dakol, 2022) explained that the five-man panel of Justice of the Supreme Court led by the Chief Justice of Nigeria (CJN), Justice Tanko Muhammad, while upholding the ruling of the Sokoto Division of the Court of Appeal ruled that the APC never conducted valid primary elections to nominate candidates for any elective position in the state and as such did not have any valid candidate in all the elections that held in Zamfara State. The verdict further awarded a cost of N10million fine against the All Progressive Congress, as they further went to make an important order instructing the Independent National Electoral Commission to declare as winners PDP candidates having secured the second highest votes in all the elections. Accordingly, Olorunsuwa, et al, noted that Bello Muhammad Mutawalle, who scored 189,452 votes (26.16%) of total vote caste was returned as the governor of Zamfara as **against** Alhaji Mukhtar Shehu who got 534,541 votes(73.83%). This can only be judicial democracy(Adakai and Olorunsuwa, 2019). Olorunsuwa et al(2022) further decried the Supreme Courts decision, as the jury discountenanced the provision of section 179 sub-section(b) of the 199 Nigeria Constitutions(as amended) which demands any winner of gubernatorial elections is expected to have secured at least 25% of votes cast in at least 2/3 of the Local Government Areas of such state(Constitution of Federal Republic of Nigeria).

Throwing away the Baby with Bathwater: Bayelsa Judicial Gimmicks

In Bayelsa State the All Progressive Congress' (APC) candidate Mr. David Lyon and the winner of the November, 2019 governorship election had his victory voided

by the Supreme Court in just a day to his inauguration as governor on the ground of irregularities in the certificates of his running mate. A case of forgery had been instituted by the PDP and its candidate against Mr Biobarakuma Degi-Eremienyo, the APC governorship running mate (Dele-Adedeji, 2020). Consequently, a panel of the Supreme Court headed by Justice Mary Odili, voided his victory, declaring the PDP's candidate as the winner. Sadly, the APC candidate Mr Lyon had polled 352,552 votes amounting to 68.07% to defeat Duoye Diri of the Peoples Democratic Party (PDP) who trailed distantly behind Lyon while scoring 143, 172 votes which translates into 27.64% of the votes caste(Premium Times, 13, February, 2020). The said Supreme Court decision did not only defeat the essence of democracy but made a mess of the concept of majority rule as Diri who scored 27% of the votes ended ruling even when he was never voted. The impulse of that curt ruling is the indirect disenfranchisement of 352,552 voters that had preferred to be governed by Lyon of APC. It is a rape of democracy and what can be best termed as coming to power through the backdoor. This judicial democracy doesn't portend any good for Nigeria's democratic deepening as power of choice no longer resides in the people but now in the jury. A defeated politician could find himself in power insofar as he has a competent lawyer who possess the ability to sway justice to his side through whatever possible means.

Compensating APC for Enormous Judicial Electoral Loss: The Case of Imo

Another controversial political judgement or perhaps the most controversial in the 2019 election circle is the Imo State governorship election matter. In the election, Ihedioha Emeka

(PDP) had scored 273,404 votes and was subsequently declared and returned as the winner of the election. Mr Nwosu Uche of Action Alliance (AA) came second and scored 190,364 votes, Senator Araraume Ifeanyi Godwin of APGA got 114,676 votes and came third, while Senator Uzodinma Hope Odidika of APC came distant forth with 96,458 votes (INEC, 2019). Ihedioha eventually got sworn-in but his election was differently challenged by Ararume, Nwosu and Uzodinma. All petitions but Uzodinma's were dismissed by the Supreme Court.

The Governorship Election Tribunal and the Court of Appeal had in their separate rulings earlier upheld Ihedioha election, dismissing Uzodinma's petition and those of Nwosu and Ararume as lacking in evidence and for their inability to substantiate their claims (Channels, September 19; 2019; Enumah, 2019; and Omohomhion, 2020). The case however continued to the Supreme Court.

Supreme Court decision had led to the annulment of the election of, and the removal of Rt Hon Emeka Ihedioha the winner of the March 9 governorship election in Imo, and replaced him with the APC gubernatorial candidate, Senator Hope Uzodinma who came distant fourth in the gubernatorial elections (Ngwu, G.E. and Ogiri, 2022, Premium Times, 2019). According to Adebayo, (2020), the ruling came with a lot of shock and surprises to an extent that stakeholders kept demanding that the Supreme Court makes available the tally of the election that returned Uzodinma as the candidate with the highest vote cast. The Supreme Court had ruled that Uzodinma's votes across 388 polling units were affected and wrongfully calculated. The APC's candidate had originally scored

96,458 votes which the court now magically upped to 309, 753 votes, that eventually surpasses 273, 404 votes scored by Ihedioha of PDP (Adebayo, 2020, Yahaya, 2020). It is further reported by Adebayo (2020) and corroborated by Yahaya (2020) that other fundamental additional details like number of registered voters were missing and the new Court's computation did not provide the votes scored by all other candidates in the election which casts a lot of doubt on the integrity of the court decision. Salihu (2020) captures the mood of the public as follows:

".....suffice to add that the substantive judgment of the supreme court of Nigeria delivered earlier in January, 2020 remain a watershed in the legal history of this country in the sense that it generated a lot of debate among the citizenry, both within the legal profession and otherwise" (Salihu, 2020, pp 102).

Ihedioha and the PDP in protest to the bizarre court ruling that nullified their victory re-approached the Supreme Court to make a request to the court for a judicial review of her decision on the governorship tussle, saying that the decision must have been made in error(The Punch, 18th February, 2020). Ihedioha also requested the CJN and six other justices of the Supreme Court to recuse themselves from the appeal(*Jibueze, Onanuga, & Ogunwale, (2020)*). The Supreme Court however dismissed the application and stood by her decision effectively nullifying the victory of PDP in the said ruling, insisting that granting such application would open the floodgate for series of litigation as such is an invitation to the supreme court to sit in appeal over its own judgment, which the court would not accept(*Omohomhion, 2020*). It is believed that the court had only used the Imo governorship election case for judicio-political balancing between the APC (that has previously won governorship seats in Zamfara and Bayelsa but lost them through judicial intervention) and the PDP that has been the beneficiary of the APC losses. This, to many was because many were beginning to feel that the election rulings especially in the case of Bayelsa and Zamfara were more political than legal.

The bases for democracy and the purpose of elections is to ensure that the choices of the people is respected and sustained by the courts but the judicialisation of the polity has set this principle in a reverse order as decisions of the masses are overturned on the bases of technical grounds and electoral victory are handed to losers at the polls from the back doors through the instrumentality of the judiciary(Dele-Adedeji, 2020).

CONCLUSION AND RECOMMENDATIONS

The judicialization of electoral outcomes in Nigeria's Fourth Republic, particularly in the 2019 general elections, has raised critical concerns about the integrity of the democratic process. The increasing reliance on courts to determine election winners—as seen in controversial rulings in Zamfara, Bayelsa, and Imo States—has shifted political power from the electorate to the judiciary. While judicial intervention is essential for resolving electoral disputes, its excessive use undermines democratic legitimacy, fosters voter disillusionment, and incentivizes political elites to exploit legal loopholes rather than compete fairly at the polls. The financial and institutional costs of litigation further strain Nigeria's electoral system, diverting resources from governance to legal battles.

This trend reflects deeper systemic issues, including weak electoral institutions, flawed party primaries, and judicial susceptibility to political influence. If unchecked, judicialization risks entrenching a culture where electoral victories are secured not through ballots but through courtrooms, eroding public trust in democracy. To safeguard Nigeria's democratic future, reforms must prioritize electoral transparency, judicial accountability, and mechanisms to minimize post-election litigation. Only by restoring the primacy of the people's vote can Nigeria achieve genuine democratic consolidation.

Conclusion

Scholars of election and democratic consolidation have a high level of consensus that one of the indices often employed to measure the level of democratic consolidation

is the total number of election litigation brought before the courts, which is a direct offshoot of the quality of the elections. In other words, the level of Judicialization of politics within a country is in itself an index for measuring how far democracy has been consolidated, this view was echoed when Dele- Adedeji while decrying the dangers inherent in judicialisation of politics sympathetically avers as follows:

Politicians – and those close to them – are the only ones to benefit from the current state of affairs. The Nigerian voting public will always come off worse.

This is because voters are likely to become apathetic about voting if they feel that their vote doesn't matter in the grand scheme of things. Low voter turnout is an indictment of the electoral process. In addition, the argument over whether the courts are partial or impartial is a moot one. The fact remains that appointments to positions in almost every aspect of Nigeria's public sector are politically influenced. Nigerians are, therefore, right to question the partiality – or otherwise – of the courts.

The current trend also has the potential to embolden politicians to forego the polls and instead try to "win" elections by influencing the judiciary in underhand ways. Making a habit of bypassing elections as a means of determining elected officials due to electoral irregularities, and forcing the judiciary to constantly have to annul elections doesn't bode well for Nigeria's fledgling democracy (Dele-Adedeji, 2020).

Since therefore it is a settled matter among scholars of democratic consolidation that a decrease in the number of election related litigation is an indication of an improved

democratic practice. The 2019 general election however witnessed an increase in the volume and forms as well as outcome of electoral litigation. The implication of this trend is the over reliance on the court for electoral outcomes which most times contradict the electoral decision of the masses. In the last four election circles (2007-2019), records have shown that there were 3,479 election petitions filed (Omotola, 2021). Abati (2019), in lending his voice to the danger of excessive reliance on court for resolution of electoral cum political conflict has on the country democracy, agreed that voters are at the risk of being alienated, disenchanted and uninterested in the electoral process. He captures the danger the trend portends for Nigerian democracy as follows:

...the plain truth is that the Nigerian voter is so alienated, cynical and so disconnected, he or she is right now largely indifferent and that is part of the problem with Nigerian democracy. The Nigerian electorate must rediscover their voice. Still, the judex must not descend into the arena of politics Abati (2019).

Apart from the derailment of democracy by political judicialisation through disenfranchisement and disenchantment of voters, removal of power of choice from the citizen and the tendency for festering corruption, the trend is an avenue for wastage of national resources. The cost of prosecuting such litigation when put into consideration, it is taking a huge toll on the economic fortune of the country. The 2019 elections legal battles alone cost INEC a whopping sum of about 7.2billion naira considering an average cost of 4.5million naira expended on each case (Jimoh and Akubo, 2020). In line with the opinion of Dele-Adedeji as expressed above, the judiciary has been implicated as being

overly involved in contributing to the derailment of Nigerian democracy as it assumes the reputation of anything goes (especially in election related cases) hence a lot of judges have been perverting both civil and political justice (Aver &Orban, 2014 and Okeke and Idike, 2017 cited Olorunsuwa, Bot and Oko, 2020). Aver &Orban (2014) taking a further clinical examination at the Nigerian judiciary and her democracy observed that Nigerian judiciary has provided the ground that has weakened the system, thereby making democracy chronically vile in the country. They went further to assert that:

More worrisome of these defects is the facts that the system has failed to respond to the periodic and episodic surgical of democracy especially the ability of this important organ of government associating itself with unbridled corruption where desperate politicians go to great lengths to corrupt judges in order to secure undue advantages for themselves at the detriment of the poor masses. The integrity of Nigerian judiciary contrary to the assertion that the judiciary is the last hope of the common man, when the chips are down it has always sided with the rule of class in Nigeria against the poor masses as such it does not promote the development of democracy in the country (Aver &Orban, 2014).

Recommendations

In the face of obvious challenges posed by the deepened influence of the judiciary on electoral outcomes, and by direct implication on the democratic consolidation, it is thus recommended that:

i. Electoral reforms that will strengthen INEC's independence and capacity to conduct credible elections, thereby reducing reliance on courts should be put in place.

ii. Judicial accountability that establishes stricter oversight mechanisms to prevent judicial bias and corruption in election cases must be put in place to ensure that court ruling is meant to serve the cause of justice alone

iii. Legal framework review that permits the amendment of electoral laws to prevent the court from usurping the power of electoral decisions of citizens must be put in place. In other word, court should under no guise declare winner(s) in an election that runs against the wish of the people as expressed in that elections. Laws that limit frivolous petitions and expedite dispute resolution, prescribe punishment for party leaders that circumvent their party laws should be put in place and adequately enforced.

vi. Public awareness campaigns to educate voters on electoral rights and the dangers of judicial manipulation should be put in place.

Sanctions for abuse and strict penalty should be imposed on politicians and lawyers and jury who exploit judicial processes to subvert electoral outcomes.

By implementing these measures, it is certain that incidences of judicial interference in elections in Nigeria can be reduced, thereby reinforcing democratic governance and public trust in the electoral process.

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