



Increasing Role of Judiciary in Determining Political Election Matters in Nigeria: Pathos to Democracy?

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ABSTRACT

The paper investigation is on a rising degree that is worrisome to which the judiciary as an institution is involved in determining political election matters in Nigeria. The problem is that the practice of democracy has established a questionable system of inquiry that makes one reflect on whether it is critically functional to justify its operational existence. The phrase “Go to court if you are aggrieved” (using 2023 presidential election as a case study, a common statement made by the ruling political party at the federal level) on democracy election matters has proved that judiciary as an institution has become a factor undermining popular opinion to the detriment of the people’s decision in democracy process in Nigeria. The objective of the paper ascertained on the issue that judiciary as an institution in Nigeria seems to have being having frequent of direct communication, briefings and meetings with the executive arm of government. And as a result there is clear misapplication of entrusted power, authority to secure illegitimate political power private gain, directly violating ethical and professional responsibilities. The paper stated that increasing activities of the judiciary is working against the decency of the public, and this is a Nigerian challenge. The methodology was qualitative empirical study, observation, analytical and investigated the theme. The finding is that this scenario has produced public feelings of sadness which most times leads to destructive socioeconomic tendencies in Nigerian state. In conclusion, most citizenry have lost hope on judiciary as an institution that is the last hope of a common man. This paper stated some recommendations for the way forward.

Key words: Increasing role, Judiciary, Political election matters, Pathos, Democracy.

INTRODUCTION

With the introduction and progression of the Electoral Act, 2022 which is fashioned to bring forth a latest electoral jurisprudence that is totally a recent development, if not foreign, to ordinary citizen in Nigeria, has begun to be incompatible to elucidate critical and essential function of judiciary in the electoral procedure in Nigeria. The judicial decisions and their multiple connotations do not guide-post the captivating requirements to intensely describe the duties of judiciary in the electoral procedure. Current improvement in the citizenry and specifically judgments emerging from the courts baffle the public about the responsibility of the judiciary in the electoral procedure or appears to interrogate the supposition that the paramount potency to choose political office contenders in democracy election bestowed with the public.

No doubt, a-lot of Nigerians do not comprehend the reason and how some of the decisions that emerge from the court are arrived at and why it would seem that it is now the courts that own the potency to make a decision on who is a political contender of political party or election winner and not party members/delegates or the electorates. Also, the electorates wonder how the courts have the power to decide the rightly chosen candidates in a general election as averse to the electorates. Consecutively, in Nigeria today the judiciary is disparaged and seen as a foe to democracy. One of the greatest dangers to the survival of modern democracy in Nigeria is the rampant bleaching of justice in a manner that undermines the free flow of ideas and open debate which gives meaning to the spirit of democracy. Based on this background the paper is articulated to shed light on this misapprehend of the obtrusive duty of the judiciary in the democracy electoral procedure. The study applied exploratory and analytical methods of research to review the current democracy electoral situation in Nigeria.



Statement of Problem

All over the globe, political elections are won based on articulated lawful strategies. But in Nigeria, strategies to win political elections are to offer favour to the electoral umpire (Independent National Electoral Commission, INEC), also offering favour to the judiciary to improperly influence decisions and commandeer the security personnel. The court seems not to abide by the electoral laws, and they overlook the administrative laws in pronouncing their judicial decisions, for instance Ahamed Bola Tinubu vs Peter Obi 2023 presidential election results matter. The judiciary courts do affirm with the unlawful laws being exercised by the electoral umpire (INEC) before, during and after democracy elections. In Nigeria, the courts do not strictly abide by electoral jurisprudence in democracy election exercises and as such give judicial supportive decisions on faulty democracy elections. Most times the judiciary courts disobey and disrupt some political party internal regulations to achieve the misuse of electoral processes. The premise that electoral laws are legal instruments to achieve progressive democracy practices are most times undermined by the judiciary courts. The judiciary as an institution has become a cog in the wheel of democracy process that eventually generates toxic governance in Nigeria.

Judiciary Courts and Electoral Jurisprudence in Nigeria

The fundamental duty of the judiciary courts on electoral jurisprudence is to restore back power to the electorates to freely choose their choice of political leaders and representatives in democracy process (Dr Sam Amadi; On Arise Television Morning Show Interview, 5th April 2024). This implies the electorates' rights to freely choose and elect their political leaders and representatives without judiciary interference. But in Nigeria the judiciary courts give supportive court decisions to glaringly faulty political election outcomes. There are election cases where the judiciary courts accepted electoral process against the electoral laws (for instance, Godswill Akpabio political party primaries process in 2022 that ushered him into the Nigeria Senate President position). In a decent democratic environment electoral process should be nullified if they are conducted contrarily to the electoral laws (Obiaraeri, 2023).

Often cases, the courts support the electoral umpire INEC that do not disqualify candidate(s) that presented questionable certificate forgery, financial related crime offenses before or after election and nullify elections contrarily to electoral laws; for instance, questionable certificate scandal presented by Ahamed Bola Tinubu that participated during the 25th of February 2023 presidential election in Nigeria should have being nullified and still doing the same for 2027 presidential elections. In Nigeria, jurisprudence decisions appears to have been upholding faulty political election matters(Igini, 2022).

The judiciary courts are weak to recognize electoral jurisprudence in our democracy elections (Obiaraeri, 2023). This implies they fail to appreciate the facts that agencies (such as INEC) created under the law with enabling Acts, and constitutionally permitted to make rules, those rules created by INEC are laws that should be obeyed by the courts, however, they are flagrantly disobeyed by the judiciary courts. Another instance where the courts flawed on its institutional duty is affirmation by the judiciary court on electoral umpire (INEC) corrupt and improper collation of 25th February 2023 presidential election through disruptive electronic transmission of its election results. The judiciary seems not to or as oversight functions appreciate the truth that electoral laws are legal instruments that ought to be acceptable and legally recognized.

In Nigeria, it is often common to observe that judiciary courts as an institution do not apply the duty- right to overrule political party when some candidates fail to obey political party internal democracy. As a result, it has become a widely used idiom criticizing corruption in the country's judicial and electoral adjudication systems, rather than a formal legal decision. In Nigeria, citizens have frequently decried that the administration of justice has been commodified, implying favourable court judgments or rulings can sometimes be improperly influenced by financial inducements or political power rather than the rule of law. For example, the former and current Nigerian Senate Presidents (Dr Lawal Lawan and Mr. Godswill Akpabio in 2023 elections into National Assembly) are beneficiaries of such electoral adjudications. The implication is that the courts overrules political party internal democracy decisions and denies the political parties the rights to follow the rules of internal democracy. The courts have severely given electoral adjudication that are not convincing enough



why political elections are lost or won. Through electoral adjudications, they impose candidates on political parties, abandon their judiciary institutional duties and allow desperate and fraudulent politicians to rascally capture political power into office.

Intervention of Judiciary in Electoral Matters

Employing relevant statutory provisions and pertinent case authorities, the paper will give interpretations why and how the courts intercede in the democracy electoral matters. Why depending on the principle of *ubi jus ubi remedium* (where there is wrong, there is remedy) the courts have the capability to upsurge the status quo (Obiaraeri, 2023). Why anticipating the laws suitable in the divergent pronounced cases, the courts are capable to reach a pronouncement either way in electoral issues put-up before the very eyes of the law. It is remnant indisputable that political resolutions continue being mostly contended and doubtful lending themselves to diversified perceptions. As a matter of fact, few of the judicial decisions could be agreeable or pleasant and or concur with the option of the voters; while most could be unpleasant and or perturb the expectancy of the electorates. However, in Nigeria the truth is that the use of constitutional rights to legally challenge both the pre- and post-election matters and the judiciary process has become an absolute misnomer in the democracy context. The consequences of such legal challenges has become a problem in the process of democracy development.

In such scenario of the judicial decisions, the bar/bench, courts will project the argument that the electorates do not comprehend the technicalities of the rule of law and the parch truth of law included in such decisions. In Nigeria, it is glaring to observe that some individuals are more powerful than institutions. The question of whether the judiciary as an institution does up-hold that the supreme role of judiciary is to perform and aid the ends of justice as stated by law and the thorough comprehension that law is simply the handmaiden of justice and the attendant should not command the lord. The French political philosopher Montesquieu argues that ‘the spirit of the law is what gives operational meaning to the order of things. By implication, the judiciary should be a leading pioneer within the paradigm of what becomes known as democracy development. The judiciary should devote an entire tome to the decision analysis of civil electoral culture as an essential element in the consolidation of political stability in democracy.

The paper observed that, intervention of judiciary is created because of the politicians in Nigeria has become a corporate oxymoron and a paragon of paradoxes. According to Ari (2021), the politicians choose what is repulsive in the democracy participation and do so in the form of military mentalities without belching, let alone give way to a raspy paroxysm of voting. Obiaraeri (2023) also observed that the political rascals seem to be influencing the judiciary through the display of financial interplay to win election matters. The phrase ‘go to court’ has become an amendable statement that creates a situation where the ‘unlearned’ is manipulating and controlling the ‘learned’ bench/bar. The 2023 democracy general election results and its aftermath have created a litmus test scenario that the judiciary is at crossbar to really show case their claimed independence as integral arm of government (Obiaraeri, 2023). This implies that the application of independence of the bench/bar will display if really, they are contributing to effectual democracy functions. In reaction, the citizenry perception spotlights the erosion of public trust, where the judiciary traditionally considered the ‘last hope of the common man’ are accused of favouring political actor who compromises the electoral process.

Role of the Judiciary in Democracy Process

The fundamental role of judiciary as an arbiter and custodian of the judiciary powers is precisely specified in section 6 of the Constitution of the Federal Republic of Nigeria, 1999 as amended; The judiciary has the duty as an arm of government to interpret laws made by the legislature and adjudicate disputations including all individuals, government and authorities. The omnipresent role of the judiciary in electoral issues are severally taken into cognizant either under the general judicial powers of the judiciary under section 6 of the Constitution of the Federal Republic of Nigeria, 1999 as amended under the particular provisions of the section 285 of the Constitution of the Federal Republic of Nigeria, 1999 as amended; entrenched in the numerous election tribunals or under the Electoral Act as suitable for being applied over time and particularly under the evolving Electoral Act, 2022 demanding unhappy aspirants or candidates to proceed towards the court in the



circumstance of non-compliance with Electoral Tribunal if discontented with the deeds of the election. (Source: Federal Republic of Nigeria, 1999 Constitution (as amended) section 6 and section 285).

No doubt judiciary has a strong relationship with democracy, but Denning (2022) points out that democracy thrives on free popular elective consent and decisions not by judicial litigation decision influences. This view explains why political election results in the main criteria that are duly recognized for change of government in a democratic state. Political elections are often thought of as wielding absolute and direct mediated effects on democratic process. Elections have been an integral component of democracy but, in Nigeria political elections have been fraught with controversies. This has provided opportunities for the judiciary to be involved and officially finally determine most political election results in courts. Most times the judiciary electoral adjudication creates a situation of negative peace where general acceptance of judiciary decisions is low.

As an interpretative and important arm of government, the legitimate role of the judiciary is for proper direction of the citizens and aid to the democratic development of the country (Ari, 2021). From this perspective, the lawyers and bench/bar appear to be scuttling the democracy process which implies that there are a growing number of lawyers who are not living up to expectation in reference to their oath of offices. There are pre- and post-election matters that have overstayed in courts against the stipulated one hundred and eighty (180) days enshrined in the constitution of Nigeria. The greatest legacy of democracy is periodic elections (Mike Igini, Arise Television Live Interview on 26th October 2022 'On Democracy and Judiciary in Nigeria'), which the judiciary as an institution ought to maintain integrity on protection of democracy legacy.

In this discussion, the paper centers on recapitulations of the rising involvement of the judiciary with specific interest on the elaboration of the concept of increasing role, determination, and political election results. Definition of democracy was analyzed and the effects of judicial involvement on the empathy and feelings of the people in the practice of democracy in Nigeria. Therefore, this paper argues that inadequate understanding of judiciary roles weakens the democratic development in the country and thereby creates dilemma for the judiciary.

Increasing Role: A Conceptual Clarification

Increasing role coincides with the growing participation of judiciary in the democratic political process. This aspect of growing participation has a leading role that is creating denial or delay of justice which leads to misrule and dictatorial governance. For instance, the 2023 presidential election which there is wide spread suspicion that the current Nigerian president did not win the election but electoral adjudication that placed him on seat. There is a high degree of descriptive performance by the judiciary that adversely affecting the democratic process in the Nigerian state. According to Ari (2021), the judiciary has expanded and undercut the traditional roles of the lawyers/bench in Nigerian democratic space.

By implication, the legal luminaries appear to have created a system where electorates express their opinions on election choice and through the court verdict electorates' opinion of election choice are thwarted. The courts most times finally decide and declare the authentic election results after the declaration of election results by the electoral institution that organized and conducted political elections. A good example, is that of former governor of Imo state, Chief Emeka Ihedioha vs Senator Hope Uzodinma court case of 2019 Imo state gubernatorial election. Senator Hope Uzodinma eventually won the office of the Imo state governor through rigorous electoral adjudication which was against the electorate voters popular decision.

Judiciary is one of the arms of government whose fundamental duty is to investigate the facts, the interpretation and application of laws as the constitution stipulates in cases of conflicts between individuals, government and authorities in the state. The judiciary ought to be enlightening and practice guidelines, given prominent roles which regulate the democratic process. In carrying out its scary role, the judiciary interprets the law to solve conflicts between citizens, citizens and government, between arms of government; between tiers of government and protect rights as well as limits the exercise of political power (Ene, 2021). Based on their statutory roles, rather they appear more of been influenced by financial inducements rather than the rule of law. Denning (2022) went further to state the functions of judiciary in a modern democracy which involves the following:



- Justice to the people
- Interpretation and application of laws
- Role in law making
- Guardian of the Constitution
- And power to get its decisions and judgments enforcement.

In this process of executing their roles in Nigeria, the independence of the judiciary has increasing being in doubt. The doubt implies that rules of professional ethics in legal profession do not properly apply in the eyes of the law. The continuous doubt has created bizarre effects on both pre- and post-election result matters. The manifestation of this doubt lies in the regular court fixtures, and proceedings and issuance of conflicting court orders which constitute professional miss-conduct of the bar and the bench in judiciary. The increasing role of the judiciary has become a retrogressive exercise in the conduct of democracy development.

Judiciary on Political Election Matters

The judiciary refers to the lawyers and the bench in the law courts (Raz. 1979). The high rate on the determination and decisions of the judiciary on political election result matters, one begins to wonder that the judiciary has become the unofficial election umpire in Nigeria democracy. The determining role of the judiciary in politics most often adversely affects our polity and shapes the political behaviour of our political actors. In this sense, the politicians become desperate to win the political power and have believed that the election matters will end in court to their own favour, that is why the phrase “go to court if you are aggrieved” with the announced election results. In our democracy today, most political election results are one way or the other been challenged in courts that lasted for several months and those judiciary cases are in a state of chaos.

On pre-election issues, those political matters in courts whether presidential, gubernatorial, national assembly, and state assembly matters are delayed being decided which do not allow the contenders enough time to campaign, sell their manifestos and contest the main election. Because of this delay, the judiciary is not contributing to progress to our democracy. There is a retrogressive partnership between the judiciary and the politicians, for instance, in Rivers state during preparation for 2023 general election, 22 (twenty-two) All Progressive Congress party candidates were disqualified by High court in Port Harcourt, Appeal court in Abuja upheld their candidature and eventually the ruling party (Peoples’ Democratic Party) won all the seats in the state house of assembly election results. Any democracy without opposition is not developmental and unhealthy political situation in the state. The outcome is that one party state is an absolute retrogressive scenario in every democratic setting, such as All Progressive Congress political party scheming to achieve one party state under Ahmed Bola Tinubu federal government in Nigeria democratic development.

The most worrisome perspective is the judicial activity on post-election matters as regards to Independent Electoral Commission (INEC) results and pronouncement of election winners. It has been observed that INEC as an institution has organization proximity close to the presidential suite that signifies high access and importance, same as the judiciary judges. Most often the judiciary collaborates with the electoral body responsible for conducting elections in the state. The omnipresent role of the judiciary on electoral matters is a situation where empirical facts are interpreted and manipulated with judicial terminologies. Some of the instances are the issue of former Nigerian President Muhammad Buhari during 2019 general election on his education certificate saga as against clearly stipulated in Federal Constitution of Nigeria, section 137(1)(j).

It was clear that Buhari’s certificate did not qualified him for the office of the president yet the judiciary decided in his favour; the case of Senator Hope Uzodinma in 2019 being declared in the supreme court as governor-elect of Imo state; the drug case on Ahmed Bola Tinubu that has become a national embarrassment at global stage and his certificate racketeering, yet the judiciary supported INEC compromised, rigged and manipulated election result figures and pronouncement of Ahmed Bola Tinubu as the 2023 Presidential election winner. The victory of All Progressive Congress (APC) candidate Ahmed Bola Tinubu in 2023 was legally challenged by Peoples Democratic Party (PDP) and Labour Party (LP) parties, but the Supreme Court upheld it (BTI Transformation Index ,2026)



Despite the application of organized crime, fraudulent and manipulated process of 2023 presidential election in Nigeria, the government in power asked any aggrieved person on the conduct of INEC, to go to court. Such violent extremism in the democracy process will result in state anarchy. The Nigeria democracy will only survival if the judiciaries are ethical enough to play according to their oath of office. To prove the judiciary decisions on the controversies emanating from our democracy activities, the judiciary always lords their interpretations on the ignorant public from the lens of technical issues based on the ‘eyes of the law’ for the favour to those politicians that are more powerful than the institutions in the state. As a result of judiciary access and interaction with the executive arm of the government, party ties with voters have become weak and it relies on clientelism. The middle class citizens are increasingly turning away from politics and voters turn rates are generally low (about 30% - 35%); the 2023 turn-out rate was only 26%, the lowest since the return to democracy in 1999 (BTI Transformation Index, 2026).

Politics has the ‘connotation of the acquisition of power and the processes of holding onto it’ (Iheriohanma & Udensi, 2022:20). Its practice by the practitioners is rooted in the distribution of resources in the state among the desiring/competing units and people. In democracy, the acquisition of political power and the processes of holding onto it hinge on political election results. Based on this perspective, the political elections are organized periodically and orderly succession through the secret ballot. The political powers of the government should be based upon the consent of the election results decided by the governed, the people. The concern here is when the judiciary juggles with the empirical truth that leads to acquisition of state political power and its consequences become a security threat in the state polity.

One of the pillars of democracy is free and fair elections (USA Department of State Bureau of International Information Programme, 2017). This view explains why elections are often thought of as wielding absolute or directly mediated in the democratic process. Political elections have become relevant for change of democratic government and voting into political power to propagate their value and ideas. Election has become a process in which people vote to choose a person or group of persons to change government (Collins Dictionary – [www.collinsdictionary.com>english](http://www.collinsdictionary.com/english)). From the political prism, election is the basic process of democratic representative governance and the main contributor to democratic governance. This is because the authority of the government emanates solely from the consent of the people.

The principal mechanism for translating consent into governmental political authority is the holding of free and fair election. According to Kirkpatrick (2020), he asserts that elections are necessary in democracy because it has the mechanism by which people can choose their representatives at regular intervals and change them when stipulated by law. Okpukri (2013) opines that common features of political elections in democracy involve the following:

- Political elections should be regular and fair
- Political election votes should be of equal value, one vote one value
- Political election must involve high level of participation by the electorates
- Elections should be accessible to every citizen.

The above characteristics imply that election is inevitable in political (democracy) process because of the divergence of interests and its resolution could provide a mechanism for change. Election is an integral part of democracy (Lombard, 2015). Such election change in a democratic context should initially embrace peace in a genuine spirit of give and take, and not the political class using the judiciary to impose accepting election mal-practice results that generates pathos in democracy in Nigeria. In Nigeria, judicial trial procedures and complexities on election result matters have long been lauded as one of the indicators of a post-conflict state and seen as a flashpoint for violence and state domestic insecurities.

According to Penrod (1994), there are three components of judicial trial complexity which involve the complex of evidence, the legal complexity and the quantity of information. In this sense, complexity amounts to a ‘craft value’ that determines the interaction of law and value of adjudication (Schuck, 1992). Most cases, the craft value influences the rule of adjudication in the judicial procedure of election matters in Nigeria. The components of complex of evidence and quantity of information often significantly are corrupt against the real



facts of election result matters at stake. It has become worrisome that judicial adjudication in Nigeria appears to be more accountable to the government that appointed the judges into the office than the mutual interest of the society they are obligated to serve. The question begging to be answered; is judiciary really the last hope of the common man in Nigeria democratic procedure?

Judiciary and Suis Generis Nature of Election Cases

The role of the judiciary in democracy and the perception of the judiciary on election cases as *suis generis* nature is contradictory. According to Obiaraeri (2023:9) “Election cases are considered to be *suis generis* implies that election petitions are obvious from the common civil proceeding; Election petition is neither perceived as a civil proceeding in the common reason nor, of course a criminal proceeding”. By implication, it is clear that election case(s) proceedings are specific for which specific provisions are stipulated in the national constitution. Furthermore, election cases are considered as a proceeding *suis generis* heard and regulated by an appropriate Election Tribunal as conventionally lay down subject to section 285 and the 6th schedule to the Constitution of the Federal Republic of Nigeria, 1999 as amended. The process is majorly governed by a law made ‘especially to determine’ the proceedings.

The contradiction in question, why is it that the law made ‘especially to determine’ the election cases proceedings do not put into consideration of the ‘criminal actions’ that led to election cases in courts. The criminal actions that are clearly stipulated in the electoral laws such as election manipulation or rigging, snatching of the election ballot boxes, organized election violence, changing of election figures, vote buying, thuggery/arson, etc. which are stipulated and considered as electoral crimes in the Constitution of Federal Republic of Nigeria, as 1999 amended. Electoral laws are made to give democracy an improvement and development, but the roles of judiciary seem not to take care of the above-mentioned criminal actions as contentious issues and deliver judgments as such. Even when documentary evidence is tendered during the election tribunal proceedings and of court proceedings, yet the trial judge or court will not accord repose in the suit based on the court technical phraseology.

The contradiction has led to the belief that it appears the judiciary and the courts do short-change some litigants for cash-value favour, gifts, bias and favoritism to improperly influencing decisions. It is apt to note that most politicians in Nigeria play politics of violence with bitterness using state security personnel and cultists or thugs to forcefully win election and brought to the court, yet the judiciary decision will favour such political rascals. The judiciaries most times do not endeavor to be straight forward and persistent in their decisions so that the public trust will not be disturbed about their judgment.

Democracy and Judiciary in Nigeria

Each country gives life to democracy in its own ways and in line with its own tradition (Fassan, 2021). In Nigeria, there is a common slogan among the political actors that says, first declare me the election winner and the court will decide. Go to court if aggrieved on the election result matters has become the tradition of democracy political election matters that is always characterized by malpractices such as forging election result figures, changing and tampering of election results, use of political violence to obtain election results that favours the political actors that sponsored the political fraught. In the practice of democracy in Nigeria, it has become an accepted fact that most political election matters are settled through electoral adjudication in courts. Also, it has become an accepted political norm that judicial courts declare final election results in our democratic processes. These judicial electoral adjudications in courts hold great potential for post-election violence that is likely to degenerate to insecurity and unrest in the state.

Reflecting to over two decades since the democratic experiment in Nigeria, keen observers have commenced to ask disconcerting questions regarding Nigeria’s democracy and the conduct of the judiciary vis-à-vis on political election result matters. It has become an accepted norm that judicial courts determine the final accepted political election results in Nigeria’s democracy. The paper inquired about the applicability of the famed synergy between democratic political election result matters and the role of the judiciary. Democracy thrives on free popular will and opinion, and not by financial induced judicial electoral adjudications.



The increasing role of judiciary has developed a desperate quest in political actors to win democratic elections by any means possible. Democracy is the institutionalization of freedom (Good Governance in Africa, 3rd October 2016). The institutionalization of freedom ushers in people's authority and government by the people and not by desperate quest to win political authority through electoral adjudications. Some political scientists also contend that democracy is the search for the greatest good for the greatest number of people (Anipko, 1995). In the same vein, democracy was defined as 'government by organized and sustained popular consent (Farm-House Dialogue, 1991) and not a situation to seek for electoral adjudication.

However, the paper focuses on the process of ensuring the pattern of government which involve two important highlights of democracy, thus; respect for the rule of law and equality in law and practices; and promotion and defense of human rights. From the contest of applicability of famed synergy, the judiciary election adjudication has not lived up to expectation to sustain these two important highlights and processes of democracy in Nigeria. The paper investigation is that the public perception of the judiciary as a fair plank of justice system in democracy practices in Nigeria has become on cash value where it appears that justice has been commodified and lopsided favourable court judgments influenced by financial inducements.

Judiciary is an important arm of government, but there is a hybrid authority controlling situation of court electoral adjudication process between democracy and hybrid authoritarianism. Judiciary in Nigeria seems not to be changing with the advancement of democracy. The judicial evolution is tilting towards authoritarianism typically allowing the executive arm of government more latitude to reduce judicial independence and its constitutional powers. In Nigeria, there is a tradition where court electoral adjudication influences post-election result matters, for instance Senator Hope Uzodinma vs Chief Emeka Ihedioha in 2019 on Imo state gubernatorial election decided by the Supreme Court in Abuja.. The complexities of the Nigerian politics make it eminent that judges' decisions have great impact on the social democracy we are involved in. As a result, judicial roles in the interpretation of the law are creating more pathos to the social democracy in Nigerian present democratic dispensation.

Democracy is about making agreements between people so that they can live together (Marshall, 2019). But the applications of the legal system in Nigeria have in their determinations most times produced feelings of sadness that make the agreement not to work as expected. In Nigeria, the increasing practice of judiciary in determinations of our democratic election results as authentic and final accepted judgment disrupts democracy as making agreement between people. Most times determination adversely affects people's political participation which includes a broad range of activities. These activities make people develop and express their opinions on how they are governed and try to take part in shaping the decisions that affect their lives. In Nigeria, the judiciary has been given unpopular interpretations that have truncated the peoples' popular democratic election decisions and choice, for instance, the 2023 presidential election between Ahmed Bola Tinubu of All Progressive Congress vs Peter Obi of then Labour party.

The judicial courts are not living up to citizens' expectations when it comes to political election adjudication matters. For example, most political party internal election results in crisis end up in courts. As a result, the aspirants experience judicial delays in given verdicts to such cases. These scenarios of court delays do not give chances to political aspirants to embark on political election campaigns to let electorates know and access their political party manifestos. According to Igini (2022), it opines that court cases are not decided expeditiously because of pending court cases of political party aspirants/candidates. In addition, expert-order is given indiscriminately to political party aspirants that create more confusion and hit the polity which eventually affects the electorates' political decision. It has become glaring that the activities of the judiciary in Nigeria are not giving solid building to our democracy.

Both concepts of democracy and judiciary appear to lack that work synergy that ought to create political development in Nigeria. This is because the pyramid of our national values is turning upside down because of lying on oath and application of financial inducement practices both in democracy and judiciary. In Nigeria, the judiciary that ought to be pro-active and maintain integrity to protect our democracy, has become the institution through their increasing roles are determining sometimes improperly influencing electoral adjudication judgments which are undermining the process of democracy. Most judicial judges are accused of



favouring wealthier litigants who can out-spend opponents and compromise court judgment because of craft value that is involved. The judiciary as an essential, important institution and arm of the government that is undermining the future of democracy in Nigeria through their increasing role of unethical and misrepresentation of justice based on craft value interest (Marshall, 2019).

CONCLUSION

The judiciary idea of considering election cases as *suis generis* most times project that judiciary has been compromised and are under excessive control in guardianship with judicial oath. Justice entrenched in trust is a necessity to make democracy in Nigeria to flourish and avoid pathos in our democracy process. It is because of increasing brazen role of the judiciary in the democracy procedures, the courts give decisions and favour political election cases based on technical justice over and above substantial justice. The judiciaries have allowed political parties and political imps as litigants to use excessive technicalities and intrigues to gain from their election misdeeds or blatant infraction of the stipulations of the electoral laws.

In democracy election matters in Nigeria, dependent judiciaries are portraying second fiddle to other arms of government, the executive and legislative arms of government. The idea of 'dependent' judiciary has created the most worrisome scenario that generates pathos in democracy in Nigeria. The political rascals that are more powerful than judiciary institution are determining the legal mechanism and techniques that inform increasing role of judicial electoral decisions in our democracy process. Justices of these courts are human beings and as such are infallible because they are final. The judiciary has done inestimable harm on our democracy through their misinterpretations of judgments, and it will be short-sighted egotism not to assume this noticeable factuality. The pathos is that, increasing role of the judiciary is creating more negative peace in the polity than expected sound court decisions that is generally upheld that encourage positive peace.

Way Forward

To underscore the evaluative role of the judiciary is authorized to exercise in our constitutional democracy the following are recommended:

- The judiciary should never permit the political parties and litigants to use unjustifiable technicalities and intrigues to gain from their fallacious conduct and blatant infringement of the stipulations of the electoral laws.
- The judiciary should as a matter of ethical duty endeavor to be more straight forward and persistent in their decisions so that public trust will not be disturbed about their judgments.
- The judiciary should also persist-in to refrain from justice commodified and excessive control by any arm of government rather by guardianship with the judicial oath this is because justice is ingrained in assurance.
- Granted that election petitions are *suis generis*, the final courts that decide political cases should tilt to recommendation of substantial justice over and above technical justice.
- And independence of the judiciary cannot be consummated without financial autonomy of the judiciary as an arm of government. Nigeria judiciary may perform better their constitutional roles when they are expressively given pecuniary institutional determination in terms of view subject to section 81 (3) of the Constitution of the Federal Republic of Nigeria.

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