

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

A. M. OKWORI

Arome M. Okwori

Dept. of International Law and Jurisprudence, Faculty of Law, University of Jos, Nigeria

E-mail: okwori@unijos.edu.ng

Abstract: *Since independence in 1960, the founding fathers of Nigeria recognised the need to embrace federalism as a system of government. Prior to independence, a system of regionalised governments anchored on federalism was in place nation-wide. This was meant to foster national integration and unity among the various ethnic, religious, and multi-cultural diversities. The need to build a strong nation at the centre while retaining local peculiarities and autonomy of the different sub-national governments was paramount, thereby making a federal system of government desirable. By dint of the Constitution and political experience, it was expected that the federal idea would occupy a preeminent position in the nation's structure of governance. This study assessed the paradox of a unitary-like judiciary in the Nigerian federation. While the extent of federal and state legislative and executive powers was clearly spelt out in the Constitution, with regard to the Nigerian Judiciary, it was never the case. To what extent can it then be said that the principles of federalism were imbibed and entrenched in the structure of the Nigerian Judiciary? What makes the Nigerian Judiciary in reality unitary in structure despite the fact that Nigeria is a federation? Does the Nigerian Judiciary, as presently constituted, meet the yearnings and aspirations of Nigerians for true federalism? If not, why? It is this paradox that the paper addressed. The paper adopts doctrinal method and relied on primary and secondary data which were subjected to content and jurisprudential analysis. The paper then identified a few grey areas and pitfalls. Federal control of state judiciaries is clearly a pitfall, coupled with diffused jurisdictions of federal and state courts. The paper recommended that the judiciary should be decentralised with more autonomy given to state judiciaries to manage its affairs; and reforms implemented to address the diffused jurisdictional conflicts. This will put the Nigerian Judiciary in good stead within the context of the Nigerian federation.*

Keywords: Unitary, Judiciary, Paradox, Nigerian Federation

1. INTRODUCTION

In any thriving democratic society, an effective judiciary is a critical feature. The role of the judiciary in the sustenance of peace, order and good governance in such a society cannot be downplayed (MUSDAPHER, 2011). In Nigeria, the judiciary is a creation of the Constitution and is the third organ of the Federal Government in Nigeria regarded as the Third Estate of the Realm. It is well established feature in the Nigeria constitutional system that there exists three separate Estates in our realm, namely, the Executive, the Legislature and the Judiciary (Nwanbueze, 2007). As an institution, the judiciary is a *sine qua non* to the smooth running of any organized society (Ijeoma and Ikechukwu, 2022). This is founded upon the fact that the judiciary is primarily concerned with upholding the rule of law (Nwambueze, 2007). The Constitution of the Federal Republic of Nigeria, (CFRN) 1999 (as amended), clearly stipulates that Nigeria operates a federal as well as presidential system of Government (Constitution of the Federal Republic of Nigeria, 1999). There exist three arms of Government namely, the Executive, the Legislature and the Judiciary. The judiciary operates within a federal system having both federal and state strata.

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

However, unlike some other federations like the United States of America where there is a clear separation between federal and state judiciaries, Nigeria's judiciary has elements of both unitary and federal systems of government. There is a hybrid of unitary and federal systems in the case of the judiciary in Nigeria (*AG Federation v AG Abia & Ors*, 2022). At the federal level in the Nigerian federation, there is the Supreme Court, which is the highest court of the land, followed by the Court of Appeal which is next in hierarchy and has jurisdiction over both federal and state matters. There is only a single Supreme Court for the entire Nigerian federation and also a single Court of Appeal having Divisions across the Nigerian federation (Akeredolu, Taiwo and Akintayo, 2024). This creates a unitary-like judiciary, as the decisions of the Supreme Court are binding on all courts within the federation, and that of the Court of Appeal on all other lower courts subordinate to the Court of Appeal, regardless of whether the case originated from the federal or state courts. Although Nigeria operates a federal system of government, paradoxically, the judicature is centralised at the appellate court levels with respect to adjudication and judicial administration.

Additionally, there are other federal courts. For example, the Federal High Court handle cases involving federal agencies and persons or states, and disputes between states or between the Federal Government and States. This court also has jurisdiction over certain civil and criminal matters specified by federal laws, as well as certain matters within the jurisdiction of the State High Courts such as fundamental rights enforcement cases. On the other hand, each State in Nigeria has its own judiciary, which is responsible for handling cases that fall within the jurisdiction of the State, including matters related to State laws, regulations, and disputes between individuals or entities within the State. Each State has its own High Court, and there are also lower courts subordinate to the High Court within the States.

Despite the presence of both federal and state judiciaries, there are challenges to achieving true federalism in Nigeria's judicial system. Furthermore, there have been instances where the decisions of the federal courts have been perceived as encroaching on the autonomy of the States (*A.G. Federation v A.G Abia & Ors* (2022)). This has led to debates about the proper balance between federal and state powers within the Nigerian judiciary. Undoubtedly, while Nigeria's judiciary operates within a federal framework, it exhibits elements of both unitary and federal systems- a conundrum that is perplexing even to an academic (Chinwo, 2006). The aim of the work is to analyse the paradox of a unitary like judiciary in the Nigerian federation. The work as part of its objectives explores the reasons for the unitary like nature of the Nigerian Judiciary, identified the paradox of a unitary like judiciary within the Nigerian federal system and recommends constitutional reforms and change in judicial attitudes by the judicature in order to achieve a structure of Judiciary that accords with the ideals and practice of true federalism within Nigeria federal system. This work is divided into parts. Aside the abstract, part one is the introduction while the next part is the definition section and it explored the conceptual foundations of key terms in the work. Part four examines the structure of the Nigerian Judiciary while part four analysed the paradox of a unitary like judiciary in a federal system like Nigeria and the factors that made this possible. Part five is the concluding chapter and embodies the recommendations proffered. The doctrinal approach to research was adopted in this work with reliance placed on primary and secondary data. Case law, constitutional and statutory provisions were deployed while secondary data including books and articles accessed from secondary sources were used.

2. DEFINITION OF TERMS

2.1 Unitary

The word 'unitary' may relate to forming a single or uniform entity. It is sometimes viewed as relating to a system of government or organization in which the powers of the constituent parts are vested in a central body (Hornby and Sydney, 1995). A unitary state has

been defined by the Black's Dictionary as a state that is not made up of territorial divisions that are themselves states (Garner, 2004). A unitary system of government is a system in which all political powers are concentrated in a central government, with sub-national governments, having only powers delegated to them by the central government (Gibson, 2012). This means that unitary systems of government are usually characterised by the concentration of political power in a central government entity, with sub-national governments legally subordinate to the central government or authority (Eliagwu, 2005). This system is often contrasted with federal systems, where power is divided between the central government and sub-national governments. In a unitary system, the central government has the authority to create or abolish sub-national governments, making it easier to maintain uniformity in laws and policies across the country. This system of government is common in countries with a history of strong central authority.

Incorporating a judicial perspective adds another layer of complexity to the understanding of "unitary" within legal systems. From a judicial standpoint, the unitary nature of a legal system influences the organisation and function of the judiciary, the interpretation and application of laws, and the resolution of legal disputes. In unitary legal systems, the judiciary typically operates under a centralised framework, with a hierarchical structure that usually culminates in a Supreme Court or a similar apex judicial body. Judges at various levels of the judiciary derive their authority from the central government and are tasked with applying national laws uniformly across the entire jurisdiction.

2.2 Judiciary

The ordinary perception of the judiciary is its being synonymous with the court system where the judge is tasked with the responsibility of administering justice. This definition finds support from notable dictionaries. The Black's Law Dictionary defines judiciary as pertaining or relating to courts of justice, to the judicial department of government or to the administration of justice (Campbell, 2005). It is that branch of government vested with judicial power and it includes the system of courts in a country, the body of judges, and the bench. This definition encompasses the nature, composition, and functions of the judiciary. This definition is formal and restrictive, as it sees the judiciary simply as being synonymous with the body of judges of a state, referred to in Latin as the "Judex" (Eso, 1990).

Several authors have also made attempts at defining the judiciary. According to Oloko (1990),

the judiciary is the specialised differentiated structure, processes and personnel that is devoted to the task of performing on a continuous basis one of the three interrelated and interdependent governmental functions in modern and modernising societies. The specific governmental function performed by the judiciary in these societies is what is known as rule adjudication as distinct from the two governmental functions of rulemaking and rule application. Nwabueze on his part stated that although when used in a strict sense, "judiciary" refers to judges of a state collectively, it is however, often used interchangeably with the word "judicature," a wider term embracing both the institution (the Courts) and the persons (the judges) who comprise it (Nwabueze, 1977).

Glaringly, the judiciary is a vital arm of government clothed with judicial powers for administering justice. In other words, the judiciary's mandate is not an end in itself, but a means to a higher end. The thrust of the judiciary's mandate is the cause of justice (Musdapher, 2012). It is a creation of the constitution and plays a vital role in the governance of any nation. It is regarded as closest to the people and is the backbone of the common man or in the ordinary parlance, the last hope of the common man (Nwabueze, 2007). In comparison with the other two arms of government, Nwabueze while alluding to the "the memorable words of Alexander Hamilton in the Federalist, No. 78 stated:

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

The judiciary is beyond comparison, the weakest of the three departments of power. [It] has no influence over either the sword or the purse; no direction either of the strength or the wealth of the society, can take no active resolution whatsoever. It may truly be said to have neither FORCE nor WILL, but merely judgment.

The perceived weakness is because the judiciary does not have the power or control over the wealth of the society; does not have power of control over the organized coercive force of the society, etc. It is sacrosanct that the judiciary is clothed with authority to decree judgment and administer justice and therein lies its power.

2.3 Federation

A discourse on the Nigerian Federation may seem aloof without first establishing the meaning of a federation. A basic definition of federation is the one offered by Black's Law Dictionary to mean '*a league or union of states, groups or peoples arranged with a strong central authority and limited regional sovereignties – though the individual states, groups, or peoples may retain rights of varying degrees*' (Garner, 1999). A federation thus may be seen as a state in which both the central government and the constituent governments 'rule over the same territory and people and each has the authority to make some decisions independently of the other.' A federation can also be defined as a sovereign state in which the central government incorporates governments of regional units into its decision-making procedure on some constitutionally entrenched basis.

Instructively, the Constitution of the Federal Republic of Nigeria, 1999, christened Nigeria as a federation in section 1 when it provides that the Constitution of Nigeria is supreme and is binding over all persons and authorities in the Federal Republic of Nigeria. Moreover, section 2(1) and (2) of the Constitution specifically provides with respect to the Federal Republic of Nigeria that 'Nigeria is one indivisible and indissoluble Sovereign State to be known by the name of the Federal Republic of Nigeria. Also, that 'Nigeria shall be a Federation consisting of States and a Federal Capital Territory.' It is therefore clearly settled that Nigeria is a federation.

In most federations of the world and in Nigeria within our specific context, citizens are subject to at least two main levels of authority: that of the federal and of the state governments (Dele, 2019). The 36 states that make up the federation of Nigeria are separated from the federal government under the country's constitution. The constitution expressly states the scope and authority of both the central government and the federating units. The exclusive and concurrent lists are the two legislative lists. This means that some enumerated powers are made exclusive to the federal government while some other enumerated powers are spelt out and made a subject of concurrent legislation between the federal government and the state governments, subject to the overriding authority of the federal law over a state law in the event of inconsistency between a federal legislation and a state law. The state governments are given residual functions that are not covered by these two lists (Ayeni, 2018). From this arrangement, it is easy to recognise the federal government's dominance over the state and the states being clearly subordinate to it.

Although the Nigerian Constitution identified the country as one which operates a federal system of government, with power divided between the central government and 36 states, provisions for judicial autonomy and practical realities often undermine the independence of state judiciaries. Fiscal dependence on the federal government, coupled with political interference, limits the capacity of state courts to dispense justice impartially. Also, the backlog of cases, especially at the Court of Appeal and the Supreme Court further exacerbates the centralization of judicial power. The unitary-like nature of Nigeria's judiciary poses significant challenges to federalism, including erosion of state autonomy, unequal access to justice, and inefficiencies in the administration of justice. However, it also presents opportunities for reform. Strengthening the autonomy of state judiciaries, enhancing judicial

capacity at the state level, and promoting alternative dispute resolution mechanisms can foster a more decentralized and equitable judicial system.

3. STRUCTURE OF THE NIGERIAN JUDICIARY

The structure of the judiciary in Nigeria is set out in section 6 of the Constitution of the Federal Republic of Nigeria, (1999) which created two levels of judicial powers by vesting such powers in the courts of the Federation as well as of a State to which section 6 relates. Section 6(5) clearly designated these courts as courts of superior record. The Constitution also established a clear hierarchy for the court system which confers the authority for exercising judicial powers and made provisions for the composition of the courts.

Judicial power is that which the state exerts in the administration of public justice in contradistinction with the power it possesses to make laws and the power to execute them (Nwambueze, 1977). The pronouncement of the Supreme Court on this point is relevant.

Consideration will now be given to the structure of the courts that form a vital part of the judiciary in Nigeria as spelt out in the Constitution.

3.1 Supreme Court of Nigeria

The Supreme Court is the apex court in the hierarchy of courts in Nigeria. It is established under section 230 of the Constitution and is composed of the Chief Justice of Nigeria (CJN) and such number of Justices of the court not exceeding 21, as may be prescribed by an Act of the National Assembly.

The Supreme Court is vested with exclusive original jurisdiction to entertain disputes between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of any legal right depends. In its appellate jurisdiction, the Supreme Court hears and determines exclusively appeals that emanate from the Court of Appeal. Without prejudice to the powers of the President or of the Governor with respect to prerogative of mercy, there is a note of finality to determinations made by the Supreme Court and no appeal shall lie to any other body or person from the decision of the Supreme Court and the Court's decision is final.

3.2 Court of Appeal

This court is next to the Supreme Court in the hierarchy of courts in Nigeria. The Court consists of the President of the Court of Appeal and not less than 49 Justices, inclusive of those learned in Islamic personal Law as well as customary law. The Court of Appeal has original and exclusive jurisdiction over questions as to whether a person has been validly elected to the office of the President or Vice-President under the Constitution, or whether the term of office of such person has ceased or whether the office has become vacant.

By s246 (1), (b) and (c) of the Constitution, appeals shall lie as of right to the Court of Appeal in respect of decisions of National and State Houses of Assembly Election Tribunals. Sub-section (3) of s246 states that the decisions of the Court of Appeal in respect of appeals arising from the National and State Houses of Assembly election petitions shall be final.

Pursuant to s240 of the Constitution, the Court of Appeal has exclusive jurisdiction to hear and determine appeals from the Federal High Court, National Industrial Court, the High Court of the Federal Capital Territory, Abuja, the High Court of a State, the Sharia Court of Appeal of a State/Abuja and Customary Court of Appeal of a State/Abuja. This court also entertains appeals from decisions of the Code of Conduct Tribunal and other court of law or tribunal established by the National Assembly.

3.3 Federal High Court

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

The Federal High Court consists of a Chief Judge and such number of Judges as may be prescribed by an Act of the National Assembly. The Federal High Court has limited but exclusive jurisdiction in civil and criminal matters set out explicitly under s251 of the Constitution.

For the purpose of exercising the jurisdiction conferred on it by law, the Federal High Court shall have all the powers of the High Court of a state. The Federal High Court is duly constituted if it consists of at least one Judge of that Court. The court is divided into Judicial Divisions spread across Nigeria for forum convenience.

3.4 The National Industrial Court of Nigeria

The National Industrial Court of Nigeria is established under s254A of the Constitution. The Court has a President and such number of Judges as may be prescribed by an Act of the National Assembly. The original jurisdiction of the Court is limited to civil causes and matters in relation to labour and industrial disputes to the exclusion of any other court in Nigeria. The Court also has appellate and supervisory jurisdiction with respect to appeals from the Registrar of Trade Unions, or matters relating thereto or connected therewith.

The National Industrial Court is a specialized Court with power to set up an Alternative Dispute Resolution centre within its premises (Akeredolu and Eyongndi, 2019). The Court is equally conferred with criminal jurisdiction in criminal causes and matters arising from any cause or matter on which jurisdiction is conferred on the Court by law (Eyongndi and Ilesanmi, 2018). Of interest is the fact that appeal as of right from the decisions of the National Industrial Court to the Court of Appeal is only in respect of the Court's decision in criminal causes and other related matters. Appeal also lies as of right from the decision of the National Industrial Court to the Court of Appeal on questions of fundamental rights as contained in Chapter IV of the Constitution as it relates to matters upon which the National Industrial Court has jurisdiction *UCHMB v Morakinyo* (2014). It appears the court is to a very large extent a final court and the last is yet to be heard on the enormous powers of this Court.

Interestingly, s254 (D) (1) of the Constitution states that for the purpose of exercising any of the jurisdictions conferred on it by law, the National Industrial Court shall have all the powers of a High Court.

3.5 High Court of the Federal Capital Territory

This Court is established for the Federal Capital Territory with a Chief Judge and such number of Judges to be prescribed by an Act of the National Assembly. The Court is duly constituted with one Judge sitting. The jurisdiction of the Court extends to civil and criminal causes and matters and is made subject to the jurisdiction of the Federal High Court under section 251 of the Constitution. This Court exercises both original and appellate or supervisory jurisdiction.

3.6 The High Court of a State

The High Court of a State consists of a Chief Judge (CJ) of the State and such number of Judges as may be prescribed by a law of the House of Assembly of the State. Section 272 of the Constitution confers jurisdiction on the court subject to the provisions of Section 251 of the Constitution, among other provisions. The jurisdiction of the State High Court generally covers the civil and criminal causes and matters outlined in the Constitution. The reference to civil or criminal causes and matters under s272 includes a reference to the proceedings which originate in the High Court of a State and those which are commenced before the High Court to be determined by the High Court in the exercise of the Court's appellate or supervisory jurisdiction. For the purpose of exercising the jurisdiction conferred on it by the Constitution, a High Court of a State shall be duly constituted if it consists of at least one Judge of that Court.

3.7 Other Superior Courts

The Constitution under Section 6(5) (f) – (i) specifically states that the following are superior Courts of records vested with judicial powers under the Constitution namely, the Sharia Court of Appeal of the Federal Capital Territory Abuja the Customary Court of Appeal of the Federal Capital Territory, the Sharia Court of Appeal of a State, and the Customary Court of Appeal of a State. These Courts do not play any significant roles with respect to the subject matter of this research and to that extent, it would be unnecessary to consider and analyze their jurisdiction and extent of their powers beyond this point. Suffice it to mention that these courts are principally concerned with disputes in civil proceedings involving questions of Islamic personal law and customary laws in Abuja and in the States of the Federation.

3.8 Election Tribunals

Section 6 (5) (j) of the Constitution made provisions for such other courts as may be authorized by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws on the one hand, and such other courts as may be authorized by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws. This provision means that the Election Tribunals established by section 285 of the Constitution are superior Courts of record vested with judicial powers.

Section 285(1) established for each State of the Federation and the Federal Capital Territory National and State Houses of Assembly Election Petition Tribunals with original jurisdiction to hear and determine the validity of legislative elections to the exclusion of any other court or tribunal. In the same vein, section 285(2) established in each State of the Federation an election tribunal known as the Governorship Election Tribunal which shall, to the exclusion of any Court or tribunal, have original jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor of a State.

4. The Paradox of a Unitary Structure of the Nigerian Judiciary

As it is currently in Nigeria, a unitary constitution in a federal system imports certain inherent contradictions and confusion in its original ideology (Nwambueze, 2018). This contradiction apparently stems from the fact that unitary and federal systems are mutually exclusive, and logically opposing concepts. This manifest contradiction in ideas is not only because unitary systems and federalism are mutually exclusive and logically opposing concepts, but also, because it is a negation of the meaning of federalism. It is therefore not surprising when the Judicial Committee of the Privy Council in *Att. Gen. v Colonial Sugar Refining Co. Ltd* (1914). stated that the natural and literal interpretation of the word ‘federal’ confines its application to cases in which states, while agreeing to a measure of delegation, preserve their original constitutions. This ordinarily suggests that the constitutions of the governments of the federating states pre-date that of the federation, and continue to exist and remain in operation within their original authority after the formation of the union.

The above scenario is more confusing when an appraisal of the structure of the Nigerian judiciary is made. While the powers of both the Federal and State governments, particularly as they relate to legislative and general governmental powers are clearly stated in the constitution, the powers of the judiciary as exercisable at different levels in both the federal and State levels is highly confusing. A more particularised discussion is done below. This conundrum will be examined in light of conflicting jurisdictions, conflicting judgments, the role of the NJC, and the centralization of appointments, removal, remuneration and pension of superior court judges.

i. Conflicting Jurisdictions

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

To clearly espouse the issue of conflicting jurisdictions in Nigeria, it is necessary to have a cursory look at the judicial power of the other two tiers of government, to wit, the Federal and State governments particularly as it relates to the High Courts. It is equally fundamental to state at the outset that while sections 4 and 5 of the Constitution clearly spelt out the extent of federal and state legislative, and executive powers, there is no such clear provision made as to the extent of the judicial powers to be exercised by the courts of the federal and state governments. This is especially so in view of the fact that both the Supreme Court and the Court of Appeal have no equivalent at the state levels. What is evident is the attempt by the constitution do delineate the jurisdictions of the State High Courts and that of the Federal High Court.

It ought to be stated that section 236 (1) of the 1979 Constitution granted the State High Court unlimited jurisdiction, allowing it to entertain any civil proceedings in which the existence or extent of any legal right, power, duty liability, interest obligation or claim is in issue. This led to the State High Court potentially encroaching on the exclusive jurisdiction of the Federal Revenue Court, which was later renamed the Federal High Court. However, the Constitution of the Federal Republic of Nigeria (Amendment) Decree No. 107 of 1993 granted the Federal High Court exclusive jurisdiction over certain matters, including matters pertaining to the administration, management, and control of the Federal Government or any of its agencies. This amendment curtailed the unlimited powers of the State High Court. Additionally, both the State High Court and the Federal High Court exercise special concurrent jurisdiction in matters relating to the enforcement of fundamental rights. This creates a conflict between the exclusive jurisdiction of the Federal High Court and the special concurrent jurisdiction of the Federal High Court and State High Courts over matters of fundamental rights enforcement (*SCC Nig. Ltd v George*, 2019). In essence, a State High Court cannot rightly and validly determine allegations of fundamental rights breach from acts of terrorism or treason, or acts or omission of a police officer, which fall under the exclusive jurisdiction of the Federal High Court.

Similarly, the Federal High Court cannot determine alleged violations of fundamental rights arising from torts, rape, or armed robbery, as these matters fall within the jurisdiction of State High Courts (*Iheme v Chief of Defence Staff & Ors*, 2018). Although the foregoing decision seems to lay to rest any earlier jurisdictional conflict, the question now is which court will exercise jurisdiction when the subject matter that led to the application for fundamental rights falls within the purview of matters under the jurisdiction of the State High Court and one of the parties involved is an agency of the Federal Government? Beyond the issue of fundamental rights enforcement, other matters may well fall within the jurisdiction of the State High Court but may have a party to an application being an agent of the Federal Government or such other circumstance that may fall under section 251 of the Constitution (Iloka, 2021). This puts the applicant at a crossroads in determining which court to approach for redress of an alleged breach of their fundamental rights (*Comfort Alaba Kolo v NPF & Ors* (2018)).

Beyond the question of conflicting jurisdiction in the high courts, there are issues relating to the administration of the Court of Appeal that clearly denotes this unitarism in the Nigerian judiciary even within the various divisions of the Court of Appeal. For instance, the President of the Court of Appeal, transferred all the 2023 election petition cases pending in 36 states of the federation to the Abuja and Lagos divisions of the appellate court on the grounds of the need to prevent political interference in the due administration of justice (Adebayo, 2023). This led to all appellate cases arising from the judgments of election petition tribunals in the 36 states being heard and determined in the Abuja and Lagos divisions of the appellate court. This decision affected all gubernatorial, national, and state assemblies' elections, and the Court of Appeal is the final arbiter with regards to the latter two.

The reason given by the President of the Court appears politically correct and rational, it however raises the question whether the transfer of these cases was the most appropriate step to take. It is common knowledge that both the judiciary and the National Judicial Council (NJC) have internal mechanisms for ensuring that erring judges are disciplined in appropriate situations (*Ngajiwa v FRN*, 2018). Admittedly, such a statement is an unequivocal indictment of the Justices of the Court of Appeal in all the other Divisions except for those in Abuja and Lagos. It is pertinent to ask whether this indictment is limited to only the Justices of the other Divisions in view of the decisions of the Supreme Court in some of the gubernatorial elections decided at the Court of Appeal level, especially in Plateau State.

The Supreme Court overturned the verdicts of the Court of Appeal in the Governorship election petition cases in Plateau, Kano, and Zamfara States which caused an upsurge in the crisis of confidence in the appellate court (Enumah and Igbintade, 2024). The Apex Court berated some Justices of the appellate court over the quality of their judgments in the 2023 governorship election petitions brought before them. Agim JSC made a notable pronouncement in *Manasseh v Goshwe* (2024) thus:

“The deliberate refusal of courts to follow established precedents of this court on principles that have become fairly trite and elementary, having been subject of restatements in an unending line of cases is worrisome. It has serious implications for the sustenance of the rule of law, peace, order and security of the society ... It amounts to judicial misconduct of a very extreme proportion for a judicial officer to disregard clear provisions of the Constitution and other legislations and the precedent of this court. The whole engagement from the High Courts to the Court of Appeal amount to illegitimate adjudication or false judicialism, flagrant and oppressive abuse of judicial process in an unprecedented manner.”

The Plateau State governorship petition caused outrage among some senior lawyers who lamented that the several national and state assembly members sacked by the appellate court’s decisions have no judicial remedy (Ejekwonyilo, 2024). A former Chairman of the National Human Rights Commission (NHRC), Chidi Anselm Odinkalu, and many others called on the President of the Court of Appeal to resign. Some lawyers even demanded the National Judicial Council (NJC) to sanction the judges involved in the miscarriage of justice, while others advised the Plateau State Government to approach the Supreme Court to seek justice for the sacked lawmakers.

Other equally worrisome situations are those from cases involving political parties. Politicians would usually and their lawyers engage in ‘forum shopping’ and sometimes refuse to file their matters before the High Courts in the originating states, but would rather file these cases at the FCT High Court or the Federal High Court, Abuja in the guise that these matters border on the activities of political parties who have their headquarters in Abuja (Godwin and Nwaoku, 2024). The existence of courts with coordinate jurisdictions in the unitary-like structure of the Nigerian judiciary gives rise to the perception that the judicial apparatus at the federal level can be exploited to override the interest of state politics and influence as witnessed in Rivers State.

ii. Conflicting Judgments

The judiciary is a crucial part of constitutional democracy and the rule of law, for protection of citizens and their rights (Nwambueze, 2018). It interprets laws and resolves conflicts when societal issues become unclear (*AG Fed v AG Abia State*, 2024). To effectively function, courts must be clear, consistent, and certain in their judgments. Here a judgement exists, it has binding force on lower courts and it is persuasive on courts of coordinate jurisdiction. This definition set the tone for this discussion.

In recent times, there has been an avalanche of conflicting judgements especially in disputes relating to political parties or their members. These decisions are usually at variance

with established judicial precedent and fall short of public expectations. For example, the All-Progressives Congress (APC) party in Zamfara State was a victim of conflicting judgments from the Zamfara State High Court and the Federal High Court in Abuja regarding the eligibility of candidates for the 2019 elections (Sanusi & Ors. v APC & Ors., 2018). The APC conducted primaries for governorship and state assembly positions, but the Zamfara State chapter was accused of violating party rules and conducting illegal primaries. Some party members challenged the primaries' validity and candidates' eligibility (Takur, 2018). One of the matters on the same facts was filed before the Zamfara State High Court while the other was filed before the FCT High Court. The Zamfara State High Court ruled that the APC conducted valid primaries, making its candidates eligible for elections and ordered the Independent National Electoral Commission (INEC) to accept the APC candidates and include their names on the ballot. However, the FCT High Court in Abuja ruled that INEC acted within its powers by refusing to accept the list of candidates from the Zamfara State chapter of the APC. The APC challenged that decision of the FCT High Court at the Court of Appeal to allow APC candidates to participate in elections, and the APC was successful and got judgement in its favour. The Court of Appeal ruled that the lower court lacked jurisdiction to hear the case and that the matter should have been taken to an election tribunal. The INEC initially refused to accept the APC candidates' names for the elections but later reversed its decision. The confusion and controversy delayed the elections in Zamfara State, but eventually, the APC won the governorship and state assembly seats (BBC, 2019). It is also worrisome to note that two separate appeals were filed in this matter on the same facts, one before the Abuja Division of the Court of Appeal and the other before the Sokoto Division of the Court of Appeal, and both Divisions delivered conflicting decisions on the matter. The Court of Appeal Sokoto State Division struck out the Zamfara State High Court's judgement on the APC primary elections, which produced the party's candidates for the governorship, national, and state assembly elections. This decision conflicted with that given by the Court of Appeal, Abuja Division (Tsa, 2019).

In 2015, the Rivers State Governorship Election was marred by conflicting judgments on election conducted that year. The incumbent Governor, Nyesom Wike of the PDP had Dakuku Peterside of the All-Progressives Congress in the opposition. Upon the conclusion of the elections, Peterside challenged the election results at the Rivers State Election Petition Tribunal, alleging irregularities and fraud. While the election tribunal dismissed his petition and upheld Wike's election, the Federal High Court in Abuja nullified the election and ordered a rerun, stating the election was marred by violence and irregularities. These conflicting judgments led to tension in Rivers State, with supporters of both parties staging protests and rallies. The case was eventually resolved by the Supreme Court, which upheld the decision of the Rivers State Election Petition Tribunal and affirmed the election of Wike as Governor (Nyesom v Dakuku Peterside, 2016).

Similarly, the 2016 Kogi State Governorship Elections were marred by conflicting judgments from various courts. The leading contenders were Yahaya Bello of the APC and Idris Wada of the PDP. On the one hand, Wada challenged the 2016 election results, alleging irregularities and violence on which grounds the Federal High Court in Abuja nullified the election, ordering a rerun. On the other hand, Bello and the APC challenged the decision at the Court of Appeal, which overturned the ruling and upheld Bello's election (Wada & Ors v Yahaya Bello & Ors. (2016). This led to confusion and controversy, with the PDP accusing the APC of manipulating the judiciary. On further appeal to the Supreme Court, the apex court upheld the election of Yahaya Bello (Halimah, 2020).

In Abia State, the case of Governor Ikpeazu and Alex Otti is another example. Upon a petition filed challenging the election of Governor Ikpeazu, the incumbent, the Court of Appeal declared Alex Otti the winner of the election, cancelling elections in three Local Government

Areas, a decision which many considered the disenfranchisement of over 300,000 voters. The court also reversed the number of votes recorded for Ikpeazu at Obingwa, Osisioma, and Isiala Ngwa North Local Government Area, resulting in overvoting. The court's approach raises questions about manual accreditation, INEC guidelines, incident forms, and the reasons behind the failure of the Card Reader Machine. This position when contrasted with the position of the Supreme Court in the *Amaechi v Omehia* (2008) raises more questions than answers. In the last-mentioned case, Supreme Court declared Rotimi Chibuike Amaechi as the duly elected Governor of Rivers State, even though he was never on the ballot paper for the elections. The court held that the mandate belonged to the political party and ordered Amaechi to be sworn in as Governor (Premium Times, 2014). It is interesting to note that this judgment led to the amendment of the Electoral Act, which included a provision that no individual shall be deemed to have won an election if they did not stand for election into that particular office in Nigeria. The lawmakers aim to render the judgment in the Amaechi case null and inapplicable to the electoral system.

The spate of these conflicting judgements attracted the attention of the then Chief Justice of Nigeria, Justice Mahmud Mohammed who expressed concerns over the conflicting judgments emanating from the Court of Appeal while addressing Justices of the Court of Appeal in Abuja (The Citizen, 2024). One would imagine that the address by CJN (as he then was) would have settled the quagmire. However, this appears not to be the case.

In 2020, the Independent National Electoral Commission (INEC) was again faced with the conundrum of choosing between two subsisting decisions of the Court of Appeal relating to the deregistration of political parties. The Court of Appeal on 10th August 2020 delivered a ruling in a suit filed by the Advanced Congress of Democrats (ACD) and 22 others challenging their deregistration. The court held that INEC acted *ultra vires* the powers of the Commission and ordered it to reinstate the party. This ruling substantially conflicted with an earlier decision of the Court of Appeal, Abuja Division where in an appeal filed by the National Unity Party (NUP) the Court of Appeal affirmed the power of the Commission to deregister political parties that fail to meet the requirements of the law.

Recently, the decisions of the various election petition tribunal depict the situation of conflicting judgment. There were three election petition tribunals that sat in the State, each with three judges as panellists. Their judgements were significantly different with some elections upheld and others quashed on the same ground. This situation raised several questions about compliance or adherence to judicial precedents and whether laws applying to the same set of facts could have different interpretations. This conundrum is partly a function of lack of adherence to judicial precedents and partly due to the unitary-like judiciary that has created a structure which has made such judicial abuse much more pronounced. The decision of the Plateau state governorship election petition tribunal which affirmed Governor Caleb Mutfwang's victory casts aspersions on the decision of the other tribunals in the State where some of the People's Democratic Party (PDP) candidates' elections were quashed by the tribunal on the ground that the party had no valid structure. The decision is contrary to that of the gubernatorial tribunal (Kelechukwu, 2023). The three-man tribunal led by Justice Sunday Olorundahunsi unanimously affirmed Mutfwang's election and held that the PDP has the requisite structure that produced its governorship candidate in the March 18, 2023 governorship election. The tribunal also held that it lacks the jurisdiction to entertain APC's petition challenging the repeated congresses held by the PDP since they are busybodies and meddlesome interlopers who should not have any business with PDP congress as it is entirely the business of the PDP.

iii. The Role of NJC

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

The National Judicial Council (NJC) is one of the Federal Executive bodies established pursuant to section 153 of the Constitution. ‘The NJC is saddled with the ultimate responsibility of screening and appointing persons to the superior courts of record. Within the context of the powers of the NJC, these courts range from the various high courts of a state to the Supreme Court (Azinge and Rapu, 2012).

The NJC comprises several members, including the Chief Justice of Nigeria, the next most senior Justice of the Supreme Court, the President of the Court of Appeal, five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal, the Chief Judge of the Federal High Court, the President of the National Industrial Court, five Chief Judges of State appointed by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Territory, Abuja in rotation to serve for two years, one Grand Kadi appointed by the Chief Justice of Nigeria from among the Grand Kadis of the Sharia Courts of Appeal, one President of the Customary Court of Appeal appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal, five members of the Nigerian Bar Association qualified to practice for a period of not less than fifteen years, at least one of whom shall be a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of the Nigerian Bar Association to serve for two years and subject to re-appointment, and two persons not being Legal Practitioners who in the opinion of the Chief Justice of Nigeria are of unquestionable integrity.

The duties and role of the NJC are also provided for by Paragraph 21 of Part One of the Third Schedule to the 1999 Constitution of the Federal Republic of Nigeria, as amended. The NJC has the power to recommend to the President from among the list of persons submitted to it by the Federal Judicial Service Commission, recommend the removal from office of Judicial Officers specified in sub-paragraph (a) of this paragraph, recommend the removal from office of the Judicial Officers specified in sub-paragraph (c) of this paragraph, collect, control and disburse all moneys for the judiciary, advise the President and Governors in any matter pertaining to the judiciary as may be referred to the Council by the President or the Governors, appoint, dismiss and exercise disciplinary control over Members and staff of the Council, control and disburse all monies, capital and recurrent, for the services of the Council, and deal with all other matters relating to broad issues of policy and administration.

It may seemingly appear therefore, that the NJC’s primary purpose is to protect the Judiciary from the executive's influence and ensure its independence, which is a requirement for any democratic government.

iv. Centralization of Appointments, Removal, Remuneration and Pension of Superior Court Judges

The mode of appointment, tenure, removal, remuneration and pension of superior court judges in Nigeria suggest the unitary nature of the judiciary. The appointment of the Chief Justice of Nigeria and the Chief Judge of various State high courts is governed by section 231(1)-(5) and section 271(1)-(5) of the Constitution respectively. It is necessary to briefly state how each of these appointments are to be made.

By section 231(1) of the 1999 constitution, the Chief Justice of Nigeria shall be appointed by the President on the recommendation of the National Judicial Council subject to the confirmation of such appointment by the Senate. This required procedure is the same with the procedure for the appointment of a person into the office of a Justice of the Supreme Court.

Section 238(1) makes provision for the appointment of the President of the Court of Appeal. It provides that the appointment of a person into the office of the President of the Court of Appeal shall be made by the President on the recommendation of the National Judicial Council subject to confirmation by the Senate. Subsection 2 of section 238 provides for the

appointment of the other justices of the Court of Appeal with a slight variation. It provides that the appointment of a person to the office of a Justice of the Court of Appeal shall be made by the President on the recommendation of the NJC. This appointment does not require confirmation by the Senate.

The appointment of a person to the office of the Chief Judge of the Federal High Court (FHC) shall be made by the President on the recommendation of the National Judicial Council subject to confirmation by the Senate. As for the appointment of the other judges of the Federal High Court, section 250(2) of the 1999 Constitution provides that it is to be made by the President on the recommendation of the NJC without the need for confirmation by the Senate. It should be noted that the procedure for the appointment into the office of the Chief Judge of the High Court of the Federal Capital Territory, Abuja and the other judges of the Court, the appointment of the President of the National Industrial Court and other Judges of the court, the appointment of the Grand Khadi of the Sharia Court of Appeal of the FCT, Abuja and other Kadis of the Court, and the appointment of the President of the Customary Court of Appeal of the FCT, Abuja and other judges of the Court, are substantially the same with the appointment of the Chief Judge of the FHC and the other judges of the FHC respectively.

The appointment of the judges of the State High Courts and those regarded to be in coordinate jurisdiction with the State High Courts are substantially the same. To be specific, the appointments of the Chief Judge of the High Court of a State, the Grand Khadi of the Sharia Court of a State, and the President of the Customary Court of Appeal of a State are all made by the Governor of a State on the recommendation of the NJC and subject to confirmation of such appointments by the House of Assembly of that State. With respect to the appointments of the other Judges of the High Court of a State, other Kadis of the Sharia Court of a State, and other Judges of the Customary Court of Appeal of a State are all made by the Governor of a State on the recommendation of the NJC, but there is no requirement for confirmation of such appointments by the House of Assembly of that State.

It is instructive to note that one dominant factor and an apparent common denominator that under pins the appointment of all judicial offices in the Nigerian Federation is the dominance and monopoly of the powers of recommendation by the NJC. In fact, this power of recommendation is by all stretch of imagination, and the reality of application, the appointment itself. This is because, rarely will the President or the Governor decline such recommendations and rarely do the Senate or the State Houses of Assembly decline the confirmation of such confirmation in applicable cases. This enormous concentration and centralisation clearly put the Nigerian judiciary within the general purview and specific import of unitarism. The above conclusion would still find locus and the validity of both realistic and academic acceptance if it is argued that these recommendations are usually manipulated by the big wigs in politics and governance.

A classic example of this is the controversy surrounding the appointment of the then Honourable Justice Walter S. Onnoghen, Chief Justice of Nigeria (CJN) who was to take over from Hon. Justice Mahmud Mohammed who was the substantive CJN. The appointment was made in an acting capacity but was not appointed and sworn into the substantive position until March 7, 2017, outside the clear mandate in section 231(5) that an appointment in an acting capacity shall cease to have effect after the expiration of three months from the date of such appointment.

The above-unwanted practice is no different at the level of the States. The controversy surrounding the appointment of Justice P.N. Agumagu as Chief Justice of Rivers State over Justice D.W. Okocha, a senior judge by former Governor Rotimi Amaechi, has led to a collision course between the Governor and the National Judicial Council (NJC), crippling the judiciary of Rivers State for a long time. The highly politicized appointment of a Chief Judge in Kano State has also resulted in a stalemate, which is not healthy for the judiciary as an institution.

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

Similarly, some clogs in the will and process of appointment of judges is the role of the DSS in screening the applicants being considered for judicial appointment. Even though it is important for such applicants to be screened so that undeserving persons having question characters or bad antecedents are excluded, the role of the DSS as an organ of the Executive in this regard deserves some consideration. There are some instances where the screening of applicants for judicial appointment takes an unusually long time, and in consequence, some of the appointments might be delayed inexplicably beyond the constitutionally allowed period. This then unwittingly provides another window for undue interference in the process of nomination and screening for judicial appointments (Arome, 2019).

Still on the appointment of judicial officers, the Federal Character principle, enshrined in the Constitution to prevent tribal or regional domination of any government or its agency by a group or section of the country, is a significant factor that impedes the role of the judiciary. Although this provision is to ensure equal representation in governance, inappropriate application of this policy can create mediocrity, inequality, corruption, lack of transparency, and lack of competitiveness. This principle is applied in undeserving situations for the selection or elevation of judges, especially to the Court of Appeal and the Supreme Court of Nigeria. It is with the greatest respect submitted here that the best available personnel at any given time should be appointed to the apex court, regardless of where they come from. The yardstick for employment, as expressed by the renowned Jurist, speaks to the expected best practices in the appointment of judges which promotes and produces competent hands for the judiciary covering all cadres of judicial officers. This is a precondition to the successful performance of the function of the judiciary in promoting democracy in Nigeria.

Closely associated with removal of judges is the question of their tenure of service. The tenure of office of judicial officers enjoys legal protection, and members of the judiciary cannot be removed, dismissed, or retired compulsorily except as stipulated in section 292 of the Constitution. The tenure of service for judicial officers before retirement has been pegged at 65-70 for appellate courts and 60-65 for judges of the High Courts. The security of tenure and guarantee of pension rights if not well managed can impede the work of judicial officers, which will invariably affect their delivery on the job. By section 292(1) of the Constitution, a judicial officer shall not be removed from his office or appointment before his retirement age except on the grounds stated in the section. In fact, a judicial officer is not expected on ceasing to be a judicial officer for any reason whatsoever thereafter to appear or act as a legal practitioner before any court of law or tribunal in Nigeria.

The centralisation of the process of removal of judges is yet another pointer to the unitary nature of the Nigerian judiciary. It is bad enough that so much power for the general discipline and removal of a judge is vested in the NJC, it is even worse where there is undue interference with the commission's functions either within the judiciary or by political office holders especially for personal reasons. This potentially bears a negative impact on judicial independence and inhibits the ability of the judiciary to do justice and uphold its integrity. One such example is the controversial removal of Justice Ayo Salami, former President of the Court of Appeal on 18/8/2011 following the impasse between him and the then CJN, Justice Aloysius Katsina-Alu, over the role of the former in the alleged disclosure to media of the alleged attempt by the CJN to influence the decision of the Court of Appeal in the Sokoto Governorship appeal then pending before the Election Appeal Tribunal at that time. Notably, Justice Ayo Salami was removed despite the pending suit he filed in court challenging his removal and was compulsorily retired in 2013. It is shocking to note that the NJC under a new CJN (Justice Dahiru Musdapher) in April 2012 about 8 months later, recommended Salami's reinstatement but the President did not accept the recommendation.

The popular case of the former Chief Justice of Nigeria, Hon. Justice Onnoghen is still fresh in our memories. Despite the established position of the law, especially, the decision in

Nganjiwa v FRN (2017), the Federal Government, in an unprecedented move, initiated a prosecution of the Chief Justice of Nigeria, Justice Walter Onnoghen, before the Code of Conduct Tribunal for the CJN to appear before the Tribunal on January 14, 2019, for arraignment based on a six-count charge filed against him, which later led to his forceful removal, thereby portraying the judiciary as a toothless bulldog. The judiciary must be insulated from abuse in the interest of democracy so that it is placed on such a footing to do justice without compromise. To ensure judicial independence and to avoid descending to a state of anarchy and lawlessness, the provisions of the Constitution for the removal of judges must be strictly complied with and adhered to.

Apart from its powers and responsibilities of advising the President and State Governors on recommending the appointment of judicial officers, the NJC also exercises power and control over judges' removal from office and makes recommendations to the President and State Governors on that behalf (Aguda, 2000) (Aguda, 2000). On the 26th February 2014, Justice G. K. Olotu of the Federal High Court and Justice U.A. Inyang of the High Court of Justice of the Federal Capital Territory, Abuja, were recommended by the NJC to be forced into retirement, due to allegations of grave misconduct, which recommendation was implemented. Additionally sanctioned were Justice Dalhatu Adamu, Presiding Justice of the Court of Appeal in Kaduna; Justice A. A. Adeleye of the Ekiti State High Court; and Justice D. O. Amachina of the Anambra State High Court. Before this, the NJC dismissed two justices in 2013 for various unethical reasons: Justice Thomas Naron of the Plateau High Court and Justice Charles Archibong of the Federal High Court for unethical behaviours and misconduct (The Nation, 2013).

The above disciplinary actions imposed against the implicated judges were welcomed by lawyers and the general public. There is however, the question of how independent the judiciary is given the involvement of the executive and the legislative arm of government in the removal of the Chief Justice and heads of other courts. The NJC is saddled with the responsibility of control and management of all funds relating to all judicial officers. It is interesting to note that these powers do not guarantee the independence of the judiciary in any way. Section 21 (e) of the Third Schedule to the Constitution, confined the powers of the NJC to collect, control and disburse all moneys, capital and recurrent, for the judiciary. One question that stands out is where these moneys are to be collected from. Section 80 of the Constitution, specifically provides for the establishment of the Consolidated Revenue Fund and centralises the fund in two ways, to wit: the centralisation of such funds in the Consolidate Revenue Fund and domiciling it in the NJC after collecting such portions as have been approved for all judicial officers in Nigeria. This is a complete aberration to the principles, tenets and practices of true federalism, a pointer to the unitary nature of the judiciary notwithstanding Nigeria being a federation as clearly stated in the Constitution.

5. CONCLUSION AND RECOMMENDATIONS

The Nigerian Constitution clearly states that Nigeria is a Federation and upholds federalism. However, the Constitution is marred with manifest contradictions, one of which affects effective devolution of powers to the federating units. Beyond this problem of devolution of powers, the Nigerian Judiciary is also greatly impacted in such a way that there is such concentration of powers in the NJC with respect to appointment, removal, and remuneration of judicial officers. It is imperative that these recommendations be seriously considered and implemented in order to uphold the principles of true federalism and ensure a fair and impartial judicial system in Nigeria. This would help to strengthen the rule of law and promote a more just society. By giving more power to state governments and increasing transparency in financial matters, the judiciary would be better equipped to serve the people and uphold justice.

ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN FEDERATION

In the light of the foregoing discourse, the following recommendations are pertinent:

- 1) The Nigerian judiciary should be restructured by way of constitutional amendments in line with other jurisdictions that have their own Apex court and other appellate courts which are different from those established as federal courts.
- 2) There is also a need to establish the State Judicial Council or increase the power of the present State Judicial Service Commission of the 36 states of the federation, with the NJC having supervisory powers over them. The powers to be exercised by these State Councils or Commissions will include appointment, removal, discipline and remuneration of State judicial officers.
- 3) The other urgent reforms needed include decentralizing the control of judicial funds to the individual states, allowing for more autonomy and accountability at the local level.
- 4) Political office holders, top government officials and high-ranking judicial officers must refrain from interfering with the processes of appointment, removal and discipline of judicial officers and refrain from setting the law in motion against judicial officers for personal reasons.
- 5) The issue of conflict of jurisdiction and conflict of judgement in the Court of Appeal especially with respect to filing multiple cases in different divisions of the Court on the same cause of action, without prejudice to the fact that the parties may change, should be prevented either by transferring the latter case filed, to the division of the Court where the first matter was filed for the purpose of consolidating the cases; or an outright striking out of the last in time to be filed. This will reduce the nature of conflicts in judgements from the Court of Appeal.
- 6) The judiciary should be strengthened and one key aspect of strengthening the judiciary in Nigeria is to implement reforms that promote transparency and accountability within the system.

REFERENCES

1. A Akeredolu, GS Taiwo & JAO Akintayo, *Supreme Court Legacy in Honour of Hon. Justice Olukayode Ariwoola* (2nd ed., Ibadan: St. Paul's Publishing House, 2024).
2. A Ejekwonyilo, "How Lalong, 22 Lawmakers Benefitted from Appeal Court's 'wrong' Judgments," premiumtimesng.com> Accessed 11 April 2024.
3. A Enumah and W Igbintade, 'Supreme Court Judgments Fuel Crisis of Confidence in Appeal Court' THISDAY (Abuja, Lagos) <https://www.thisdaylive.com/index.php/2024/01/14/supreme-court-judgments-fuel-crisis-of-confidence-in-appeal-court> accessed 11 April 2026.
4. A Godwin and O Nwaoku, *How Conflicting Court Orders Worsen Party Wranglings in Rivers*, guardian.ng accessed 2 February 2025.
5. *A.G. Federation v A.G Abia & Ors* (2022) LPELR 57010 (SC)
6. AE Akeredolu, and DT Eyongndi, "Jurisdiction of the National Industrial Court under the Nigerian Constitution Third Alteration Act and Selected Statutes: Any Usurpation?" (2019)10 (1) *The Gravitas Review of Business and Property Law*, 1-16.
7. *AG Fed v AG Abia State* (2024) 17 NWLR (Pt 1966) 1 at 168
8. *AG Federation v AG Abia & Ors* (2022) 16 NWLR (Pt 1856) 205
9. B Dele, 'Nigeria: A Federation in Search of True Macmillan, 2019. Cham. https://doi.org/10.1007/978-3-030-05493-9_6 accessed 1 April 2024. Federalism'. In: *The Political Economy of Federalism in Nigeria. Federalism and Internal Conflicts*) Palgrave
10. BA Garner, *Black's Law Dictionary*, (8th ed. St. Paul Minn: West Publishing Co. 2004.
11. BA. Garner, *Black's Law Dictionary* (7th ed. St Paul Minn: West Publishing Co. 1999.
12. BBC. Nigeria election: Zamfara APC wins right to field candidates. (2019, 25th May) <https://www.bbc.com/news/world-africa-48399209> Accessed 12 April 2026.

13. B Nwabueze, *How President Obasanjo Subverted the Rule of Law and Democracy*, Ibadan: Gold Press Ltd, 2007.
14. B Nwabueze, *The Second Justice Kayode Eso Lecture: The Judiciary as a Third Estate of the Realm*, (Ibadan: Gold Press Ltd., 2007.
15. BO Nwabueze B O, *Judicialism in Commonwealth Africa* (London: Hurst, 1977.
16. BO Nwabueze, *Crisis of Governance in Nigeria* (John Archers Publishers, 2018.
17. CAJ Chinwo, *Principles and Practice of Constitutional Law in Nigeria*, (2nd ed. Lagos: Princeton & Associates Publishing Co. Ltd., 2006.
18. Captain Idris Ichalla Wada and Ors v Yahaya Bello and Ors (2016) LCN/8971(CA). (4th August 2016) CA/A/EPT/383/2016.
19. Comfort Alaba Kolo v NPF & Ors (2018) LPELR-43635 (CA)
20. D Musdapher, CJN, “*The Nigerian Judiciary: Towards Reform of the Bastion of Democracy*” in: Epiphany Azing and Dakas C.J. Dakas (Eds) *Judicial Reform and Transformation in Nigeria: A Tribute to Hon. Justice Dahiru Musdapher*, (NIALS, Lagos, 2012.
21. D Musdapher, former Chief Justice of Nigeria, *The Nigerian Judiciary: Towards Reform of the Bastion of Democracy*, Fellows Day Lecture, Nigerian Institute of Advanced Legal Studies, 10 November 2011.
22. DT Eyongndi, and SI Ilesanmi, “Territorial Jurisdiction of the National Industrial Court of Nigeria (NICN) and the requirement of Endorsing Originating Processes under the Sheriffs and Civil Process Act (SCPA) Determined” (2022) 9(1) *Journal of Comparative Law in Africa*, University of Cape Town, South Africa, 162-177.
23. E Ayeni, Nigeria and the Travails of Federalism .(2018) 2. 85-105. https://www.researchgate.net/publication/340091595_NIGERIA_AND_THE_TRAVAILS_OF_FEDERALISM . accessed 1 April 2026
24. E Azing and J Rapu, ‘Roadmap to Judicial Transformation: Through the Lens of Retired and Serving Jurists of the Supreme Court’ in Epiphany Azing and Dakas C.J Dakas (eds) *Judicial Reform and Transformation in Nigeria: A Tribute to Hon. Justice Dahiru Musdapher, GCON, Chief Justice of Nigeria* (Nigerian Institute of Advanced Legal Studies, Lagos, 2012.
25. EL. Gibson, *Boundary Control: Sub-national Authoritarianism in Federal Democracies* (Cambridge University Press Cambridge Studies in Comparative Politics Series), 2012.
26. G Tsa. ‘Zamfara AP: Supreme Court decides’ Sunnews. (2019, 16th May) .<<https://sunnewsonline.com>. accessed 7 April 2024.
27. H Campbell, *Black’s Law Dictionary* (6th ed. St. Paul Minn.: West Publishing Co. 1990.
28. H Kelechukwu Eni-Out, ‘Plateau state election petition judgements: The PDP conundrum’ The Cable (11 December, 2023) https://www.thecable.ng/plateau-state-election-petition-judgements-pdp-conundrum/#google_vignette accessed 12 April 2026.
29. Hornby and Albert Sydney, *Oxford Advance Learner’s Dictionary of current English* (Oxford University Press, 1995) <https://www.oxfordlearnersdictionaries.com/definition/english/unitary?q=unitary> accessed 1 April 2026.
30. I Uchenna C. & AP Ikechukwu, “Judicial Sovereignty, a sine-qua-non to Democratic Governance: A Nigerian Experience”, *Journal of Economics & Allied Research*, Vol. 4, Issue 2, June 2022 <https://jearecons.com> accessed November 11, 2025.
31. Itheme v Chief of Defence Staff & Ors (2018) LPELR-45354 (CA).
32. JI Elaigwu, *The Politics of Federalism in Nigeria*, (Jos, Aha Publishing House Ltd, 2005) 6-7
33. K Eso, *Thoughts on Law and Jurisprudence* (MIJ Professional Publishes Ltd., 1990.
34. MO Arom, *An Appraisal of the Role of Judiciary in the Advancement of Democracy in Nigeria* (being a PhD Thesis submitted in the Faculty of Law, 2019.

*ANALYSIS OF THE PARADOX OF A UNITARY-LIKE JUDICIARY IN THE NIGERIAN
FEDERATION*

35. *Ngajiwa v FRN* (2018) 4 NWLR (Pt 1609) 301.
36. Iloka, 'Jurisdictional Crisis Involving State High Courts and Federal High Court in the Enforcement of Fundamental Rights in Nigeria' *IJOCLLEP* 3 (2) 202.
37. Premium Times, 'Amaechi defeats Omehia as Supreme Court dismisses suit challenging governor's election' <https://www.premiumtimesng.com/news/154827-amaechi-defeats-omehia-supreme-court-dismisses-suit-challenging-governors-election-2.html?tztc=1> accessed 12 April 2026.
38. S Adebayo, 'Nigeria: Election Petitions - Appeal Court Transfers Cases to Abuja, Lagos' Leadership (Abuja) 2023. <https://leadership.ng/election-petitions-appeal-court-transfers-cases-to-abuja-lagos/> accessed 11 April 2024.
39. S Takur, Exclusive: INEC Blocks APC from Fielding Candidates in Zamfara for 2019 Elections., Premium Times. (2018). <<https://www.premiumtimesng.com/news/headlines/289415-exclusive-inec-blocks-apc-from-fielding-candidates-in-zamfara-for-2019-elections.html>> Accessed 12 April 2026.
40. *Sanusi Liman, Dan Alhaji and 37 others v APC and 143*. Suit No. ZMS/GS/52/2018
41. *SCC Nig. Ltd v George* (Unreported) Suit No. SC 827/2019
42. The Citizen, 'Stop giving conflicting judgments – CJN tells Appeal Court Justices' The Nigerian Voice (Jan 3, 2026) <https://www.thenigerianvoice.com/news/201731/stop-giving-conflicting-judgments-cjn-tells-appeal-court-j.html> accessed 12 April 2026.
43. TY Oloko, "Independence of the Judiciary with Particular Reference to Appointments, Removal and Discipline" in *Law Development and Administration in Nigeria*, Osinbajo Y. & Awa U. K. (eds.) 1990.
44. *UCHMB v Morakinyo* (2014) 16 NWLR (Pt. 1434) 589 at 606.
45. *Wike Nyesom v Dakuku Peterside* (2016) Vol. 66 NSCQR (PT.3) 1325
46. Y Halimah, 'Kogi Election, 'Supreme Court Dismisses Wada's Appeal.' Premium Times. (2020, 24th August). <<https://www.premiumtimesng.com/news/top-news/411723-breaking-kogi-election-supreme-court-dismisses-wadas-appeal.html> > Accessed 12 April 2026.