



Nigeria's judiciary and the survival of democracy election results in 2003 and 2007 analysis

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Abstract

Many Nigerians, and indeed most foreign observers of Nigerian affairs, believe that the restoration of democratic rule in Africa's biggest country in May 1999 has resulted in little or no change in the politics of this vast nation of 150 million people. Despite a flood of reform efforts, the usual causes of governmental instability, corruption, electoral malpractice, and political violence, have stayed intractable. However, as this article will demonstrate, while the benefits of most institutional changes have been difficult to quantify, significant progress has been made in a few other important areas of national political life. One of them is the comparatively effective judiciary reform, which has resulted in the institution gradually emerging as a brave and impartial arbiter in intra-elite electoral disputes in this chronically unstable federation. The large number of judicial pronouncements that have overturned the outcomes of previous decisions exemplifies the judiciary's transformation. Several flawed elections and restored elected people to office, such as state Governors who were unjustly removed from office. This article contends that these decisions, as well as the new activist role of the judiciary that produced them, have helped to reinforce the role of the judiciary as a vital instrument of political control and democratic stabilisation, thereby extending the life of Nigeria's Fourth Republic.

Keywords: Nigerian, institutionalization, willingness, elections petitions

Introduction

Nigerians from all walks of life marched in their millions on May 29, 2009, to commemorate their country's tenth year of uninterrupted democratic governance. This was no easy task. Nigeria's political history has been ruled for much of the last 49 years by fraudulent elections, violent political conflict, and military coups. Both of the country's previous efforts at civilian-to-civilian transitional elections (1960-66 and 1979-83) were plagued by accusations of massive fraud and violence before being ended by military coups. (Lewis 2003) [21].

As soon as the election results were revealed, defeated political candidates rushed to denounce them, while manipulating their political thugs and followers to unleash violence and mayhem on their perceived opponents. When such methods failed, they openly invited the military to take power and dismantle all democratic structures as a means of punishing their opponents. As a result, despite open declarations of support for the concept of democracy, elections and political power were viewed as life-or-death affairs. Using the law courts to settle electoral or political disputes was thought to be a waste of time, particularly when the courts were perceived to be biased in favor of incumbents.

However, some significant behavioral shifts appear to have happened among Nigerian politicians since the return to democratic rule on May 29, 1999. While some people continue to use violence and political huggery, many others now prefer to settle their disputes through the courts. More significantly, these politicians are learning to accept court decisions as final, whether they are in their favor or not.

These radical changes are largely the result of transformation within the judiciary, which has been encouraged since 1999 to play an increasingly assertive role

as a courageous and impartial arbiter in the country's democratic politics in general and election disputes in particular. The growing number of judicial decisions that have overturned the results of several rigged elections, primarily in favor of opposition parties or people opposed to the federal government, headed by the Peoples Democratic Party, is the clearest proof of this fact. (PDP). Other judicial pronouncements that restored state governors wrongfully removed from office due to disagreements with the federal government or political godfathers have also emphasized the transformation of the Nigerian court.

While acknowledging that there have been controversies over some cases handled by the judiciary, particularly in terms of contradictions between lower and higher court pronouncements on similar or identical cases, which, in some cases, may not be unconnected with the corrupt tendencies of some judges, this paper argues that as a result of many Nigerian politicians' decision to embrace the judiciary as a reliable arbiter of political conflicts, the court in a nutshell, this article discusses the factors responsible for the shift in the attitude of Nigeria's political class and courts, as well as the degree to which that shift has helped to the stabilization of politics and democracy since 1999.

The judiciary in the pre-1999 era: An overview

The degree of significance a society places on the judiciary and the powers it grants it often determines the stability and quality of a democratic constitution. (Mbanefo 1975) [22]. This can be measured in a variety of methods. The first question is whether the judiciary is independent, that is, whether it is not beholden to any special group or either of the other two branches of government. (executive and legislature).

As Davies points out, the independence of the judiciary is desirable in any organized society that values the rule of law and human freedom, and in order to ensure this, the appointment, promotion, and dismissal of judges is typically delegated to a neutral body such as a national judicial commission whose members are paid through a special fund. (Davies 1990) ^[15]. The second factor is the Bench's competence and integrity. To command universal regard and approval, judges must be competent, learned, and of great integrity.

A third factor is the availability of adequate facilities and personnel, specifically whether there are enough judges and courts to satisfy the public's requirements and demands. (Davies 1990) ^[15].

All indications are that, prior to 1999, none of these variables defined Nigeria's judiciary. While a thorough examination of the character and operations of the judiciary prior to 1999 is beyond the scope of this chapter, it is still possible to argue that the Nigerian bench prior to 1999 faced a number of challenges. (Oko 2002; 2005) ^[26]. One of the most significant challenges was the judiciary's lack of independence as a result of being tied to the apron strings of the executive arm of government, which, through a variety of means, including the process of selecting judges (appointments, promotion, and conditions of service) and the deft use of pliable judges to carry out unpopular agendas, made the judiciary more or less the government's rubber stamp. (Oteah 2004; Nwabueze 1992) ^[30, 23].

Another issue was credible proof of widespread sectional bias and corruption on the court. (Federal Republic of Nigeria 1994; 2003) ^[17]. These and other shortcomings, particularly the problem of insufficient judges and the inability to deliver judgments on time, encouraged potential litigants to seek out extra-constitutional means of obtaining justice. (UNODC 2003; 2004). During the first (1960-1966) and second (1979-1983) republics, for example, several appeals or electoral petitions presented before Nigerian courts by dissatisfied political aspirants resulted in contentious decisions. (Abdul-Razaq 2005) ^[9]. These fueled political unrest and, eventually, bloody military interventions.

Under this system, the judiciary's ability to mediate conflicts, particularly election disputes, and thus contribute to democratic stability was increasingly undermined. As a number of studies have shown, these issues were subsequently exacerbated by Nigeria's long history of military dictatorship. (Nwabueze 1992) ^[23].

Aside from its failure to mediate disputes, the judiciary's neglect and politicization harmed this vital institution in a number of other ways.

One of these was the judiciary's transformation into an anti-democratic entity. That is, instead of enhancing democracy, it became a powerful tool for undermining democracy and fostering authoritarian rule (Davies 1990) ^[15], to the point where it has been blamed for the fall of the second and third civilian republics.

Petitions from the two general elections conducted during the Second Republic, for example, flooded the courts and elections tribunals. (Olurode 1990) ^[28]. However, rather than addressing these petitions, the courts looked intent on maintaining the status quo and not upsetting the balance of political power among the various contenders. (Unobe 1990) ^[35]. Frustrated with the courts, several lawmakers turned to the military for help. This call was ultimately

answered on the night of December 31, 1983, when the military launched an attack, effectively ending Nigeria's second civilian regime.

Similarly, the judiciary's ignominious role aided the annulment of the presidential election on June 12, 1993, which was meant to have completed Nigeria's transition to the Third Republic. The drama started when Justice Bassey Ikpeme of the Abuja High Court issued an interim injunction preventing the presidential election from taking place. This order was issued only two days before the election, despite an existing statute prohibiting courts from hearing election-related lawsuits. More significantly, the ruling came in reaction to a suit filed by the Association for a Better Nigeria (ABN), which was led by a controversial politician, Arthur Nzeribe, who was a vocal supporter of military rule.

Although the National Electoral Commission (NEC) disobeyed the ruling on the grounds that Section 37 of the Transition to Civil Rule Decree nullified all court rulings on election conduct, the courts' actions gave then-military ruler, General Ibrahim Babangida, enough reason to annul the elections. (Agbo 2008) ^[12].

According to the foregoing, Nigeria's pre-1999 judiciary did not have a smooth path as a democracy-enhancing entity. Instead, it was frequently caught in a cycle of vulnerability in reality and independence in theory. These developments, according to Omotola, may be linked to the Nigerian state's prebendal nature, prolonged military rule, and the accompanying weak institutionalisation of democratic political institutions and culture. (Omotola 2007c) ^[29].

The 1999 transition and the transformation of the judiciary

Soon after Nigeria finished its transition from military to civil democratic rule in May 1999, the country's court became embroiled in a massive corruption scandal that resulted in the dismissal of several top judges. Between 1999 and 2004, at least five top judges were dismissed for corruption and abuse of power as a result of National Judicial Council (NJC) investigations. (Newswatch, 9 February 2004).

The growing corruption among Nigerian judges, including superior court judges who were thought to be relatively immune to graft, quickly became a national worry. Nonetheless, these developments could not obscure the increasing independence and integrity of Nigerian courts and judges, which had suffered tremendously under the country's previous military regimes. (Oteah 2004; Nwabueze 1992; Oko 2005; Federal Republic of Nigeria 2003) ^[30, 23, 17]. Indeed, many of the sanctions (suspension and dismissal) imposed on corrupt judges since 1999 can be attributed to specific reform initiatives that converged to elevate the judiciary from relative political obscurity at the start of 1999 to national prominence by the end of 2009.

Three of these reform efforts deserve special attention. The first pertains to some novel provisions included in the 1999 Constitution, particularly those establishing two independent regulatory bodies, the NJC and the Federal Judicial Service Commission. (FJSC). In the instance of a state court judge, Chapters 20(a) and 21(a) of the Third Schedule of the Constitution empower the NJC to investigate and recommend appropriate sanctions to the president and commander-in-chief of the state governors. The organization is also in charge of recommending judges

for appointment and advancement, as well as enforcing judicial procedures, particularly the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria.

Similarly, judges will be appointed by the president, subject not only to Senate confirmation but also to the recommendation of the NJC, which gets advice or nominations from the FJSC. The National Judicial Council, according to section 158(1), "shall not be subject to the discretion or control of any other authority or person." (Federal Republic of Nigeria 1999) ^[17]. The FJSC, on the other hand, is in charge of the overall welfare of the judiciary. To ensure their independence, both bodies' compositions are mainly independent of the executive and legislative branches of government. As a result, both institutions are led by the Chief Justice of Nigeria (CJN) and are made up of some of the most senior members of the Nigerian Bench and Bar, as well as some representation from outside the legal field. According to Suberu (2008), despite criticism that these bodies are an assault on Nigeria's federal government, they have been reasonably effective in promoting judicial independence and integrity since 1999.

The second source of change was the court itself, specifically the personal dedication of successive Chief Justices, most notably Justice Mohammed Uwais, who served as the country's chief justice from December 1995 to June 2006. (Suberu 2008). Justice Uwais was dedicated to the concept of judicial integrity and independence throughout his term. For example, under his leadership, Nigerian judges adhered to both the Code of Conduct for Judicial Officers of the Federal Republic of Nigeria, a nationally prescribed code, and the Bangalore Principles of Judicial Conduct of 2002, an international judicial code in which the Nigerian judiciary was a major initiator, led by Chief Justice Uwais. As a result, Nigeria actively engaged in all stages leading up to the code's adoption in April 2000 in Vienna. In collaboration with the rest of the judiciary's leadership, Justice Uwais also accepted the numerous administrative changes championed by some international organizations (UNODC 2003b), which helped to raise the integrity and efficiency of Nigerian courts.

The unprecedented vigilance and heightened awareness of the public, particularly court users (lawyers and their clients), civil society groups, human rights advocates, democracy activists, and politicians, particularly those from opposition parties, aided the transformation of the Nigerian judiciary. Taking advantage of the current liberal political and constitutional environment, these organizations have increased their monitoring of judges' activities and, in many cases, raised the alarm when traces of corruption or abuse of power were discovered. As a result, some of their petitions prompted the start of several investigations, many of which resulted in the retirement or dismissal of scores of judges. As expected, the majority of these retirements were linked to election petitions. (Enweremadu 2006) ^[16].

So, how did these three variables interact to propel the judiciary from relative political obscurity at the start of 1999 to national prominence a few years later? How did the judiciary's new role help to the consolidation of democracy? One way to answer these questions, in our opinion, is to examine the role of the judiciary in the resolution of some important post-election disputes, as well as the resulting changing attitudes of Nigeria's political class toward the courts and the legal process.

The judiciary and the 2003 election

Although the possibility of a general election has always caused concern in Nigeria, the stakes were especially high in the 2003 election. This was due to three factors. The first was that a successful election would mark Nigeria's first civilian-to-civilian transition, possibly leading to the country's longest period of civilian democratic rule. Second, a successful election would allow Nigeria to consolidate its rising diplomatic profile as well as the economic power made possible by its return to the committee of democratic nations and its soaring oil revenues. Third, and perhaps most importantly, in a decentralized political system, victory in elections, particularly gubernatorial elections, held the possibility of increased access to massive financial resources, particularly for would-be governors of the nine oil-rich Niger Delta states, who appeared set to profit from the sharp increase in the international price of crude oil and the federal government's decision in early 2000 to begin implementing existing constituency laws. (The Sun, Lagos, 8 May 2006).

However, the assumed significance of an election will not translate into success on its own. In the instance of the 2003 elections, success was determined by a variety of other factors. One question was whether political parties and their candidates would follow the 'Code of Conduct for Political Parties,' refrain from political violence and intimidation, and pledge to open and equitable campaigning. (Jeter 2003) ^[20]. More significantly, success hinged on the ability and willingness of Nigeria's electoral system's managers, particularly the Independent National Electoral Commission (INEC), to conduct a relatively clean, that is, free and fair election. This requires an election whose outcome is such that the majority of participants view the results as representing the wishes and aspirations of the voters, and where this is not the case, there is a capable and honest judiciary to address the losers' grievances.

The 1999 Constitution established judicial channels for resolving such grievances, which, as previously stated, have been supplemented by institutional reforms aimed at isolating the judiciary from politics and political influences, as well as the decision to maintain existing safeguards against ethnicisation of the legal system.

Despite the fact that Nigeria is a federal state, its judicial architecture stays unitary. Depending on the problem, appeals are usually filed with magistrates, customary and sharia courts, or the Federal High Court, State High Court, State Customary AC, and State Sharia Court Of Appeal. They then proceed to the Federal Appellate Court before concluding at the Federal Supreme Court.

Stormy preparations and a flawed election

The epic elections of 2003 started several months before the voting day in April. In total, 64 million voters were enrolled at approximately 120 000 polling places. (Obassa 2003) ^[24]. Additional political parties were also established, increasing the total number from three in 1999 to thirty in 2003. (Aderibigbe 2001) ^[10]. This significantly increased political space and competition, but it also fragmented the political elite and opened new channels for potential conflict. INEC started putting the necessary logistics in place several months before the elections. Despite these efforts, however, the elections were marred by violence, including high-profile political assassinations, thuggery, and continuous

harassment of political opponents, particularly in the run-up to the election. (Ologbenla 2003) ^[27].

The 2003 elections introduced several fresh challenges. For starters, the sheer number of political aspirants and groups involved meant that there would undoubtedly be a large number of post-election petitions. Second, unlike the 1999 transitional election, which was overseen by a departing military government and was not a direct participant, almost all candidates at all levels in the 2003 elections were incumbents seeking re-election.

As a result, the propensity for electoral fraud was likely to be especially high, and the judiciary, particularly the judges set to hear election petitions, was likely to face unprecedented pressure to deliver 'politically' correct judicial decisions. Concerns were also raised about INEC's ability to deal with the political and logistical difficulties that come with organizing both federal and state elections.

INEC decided to stagger the elections in order to reduce tension and guarantee a more manageable election. All parliamentary elections were scheduled for April 12, with presidential and gubernatorial elections set for April 19. INEC's suggested dates coincided with the Easter holidays, prompting calls to postpone the elections. Indeed, one political group filed a lawsuit in order to force INEC to postpone the elections. The court ruled that such a postponement would be incompatible with both the Constitution and the 2002 Electoral Act, which required elections to be conducted at least 60 days before elected officials' terms expired. INEC's plan, as well as its tenacity, paid off. The polls were less violent than many predicted. Regardless of this,

The judiciary and the 2007 election

While the phenomenon of illegal impeachment has been largely discouraged by the prompt intervention of a vigilant and resolute court, politicians rigging their way to power through fraudulent elections remained a challenge in 2007 and beyond. The flood of electoral petitions that followed the 2007 elections demonstrated the importance of the judiciary as a credible mediator in political conflicts in the years ahead.

The divisive character of the 2007 election is explained in part by the high stakes involved. The 2007 election, like the 2003 election, was regarded as historic, in part because it would represent the first 'civilian to civilian leadership change'. (Ajayi 2007) ^[14].

The election was also held despite widespread political unrest. There were three causes for this concern, according to Jibrin Ibrahim (2007) ^[18]. The first was public understanding of the political class's vast knowledge and repertoire of electoral fraud and electoral violence techniques, which have frequently been used to frustrate Nigerians' right to elect their leaders.

The second factor was INEC's and the security forces' willingness or capacity to properly prepare a level playing field for free and fair elections. The third factor was rising tensions within the political class, ethno-regional zones, and political parties, which posed the most serious danger to the country's political stability. All of these conflicts culminated in a thoroughly discredited election.

The conduct of the 2007 election: Legal protests and judicial mediation

The election results demonstrated that Nigeria had made little progress in the critical job of cleaning up its electoral system, which had long been tainted by electoral fraud and corruption. (Suberu 2007). The ruling PDP won the presidential election and a majority of the state governorship positions, as well as the federal and state assemblies, as anticipated. This win, like the previous one in 2003, was obtained through widespread electoral malpractice and corruption.

Both international and domestic public opinion were harshly critical of the election's conduct and result, which was widely criticized for "falling far short of basic international and regional standards for democratic elections." (The Guardian, 24 April 2007) ^[13]. Despite these reservations, the proclaimed winners of the elections were sworn into their respective offices on May 29, 2007, leaving dissatisfied aspirants no choice but to seek redress in court.

As a result, the number of petitions submitted in court in relation to the 2007 general elections reached 1 250 (INEC 2007), the highest number in the country's history and more than double the 527 petitions lodged in relation to the 2003 elections. (The Punch, 10 February 2009). The increase in the number of petitions is significant in and of itself because it may be interpreted as a vote of faith in the judiciary's integrity. But it was the actual handling of the petitions that stood out, as the following parts of this chapter will show, as evidence that the Nigerian court was working to consolidate and improve its role as an agent of democracy. Again, an examination of all petitions submitted (see annexure) is obviously beyond the scope of this article, so only petitions from governorship elections in six states (Anambra, Imo, Edo, Rivers Ondo, and Ekiti) are examined.

Kayode Fayemi vs Segun Oni in Ekiti State

Ekiti State was one of the PDP's five south-west state victories in 2003. According to INEC results, the PDP won the governorship poll in the state on April 14, 2007. This triumph, however, was fraught with controversy. The Action Congress (AC) candidate, Kayode Fayemi, who finished second on INEC's list, immediately challenged the outcome before the Ekiti State Elections Petitions Tribunal. (ESEPT). Fayemi's complaints were based on two main points: significant irregularities and fraud in 63 wards across ten local government councils, and the election was marred by non-compliance with the Electoral Act. (The Guardian, 18 February 2009).

Fayemi appealed to the CofA in Ilorin after losing his case at the ESEPT. The court upheld one of his two main complaints in February 2009, which was enough to invalidate the election of the PDP's Segun Oni. The court specifically found that Oni's purported election did not essentially comply with the 2006 Electoral Act. The second ground for complaint was denied because the AC candidate failed to prove his claim of ballot-box stuffing beyond a reasonable doubt. As a result, the court ordered Oni to instantly hand over the state's leadership to the Speaker of the House of Assembly, Olatunji Odeyemi, and to hold re-run elections in 10 of the state's 16 local government areas within 90 days.

The reactions of the two protagonists demonstrated their positive perceptions of the judiciary and are noteworthy in this instance. Both parties expressed their readiness to

accept and abide by the verdict immediately after the final judgment was read. In his answer, Oni, the PDP governor who had just been removed by the court, underlined the changing approach of politicians to the rule of law when he said: 'It is the will of God. The outcome is not a defeat. I don't consider the re-run a setback because we will still triumph if we do it again. My advice to the people of Ekiti is to keep the good times rolling.' Indeed, both candidates handled themselves peacefully in the days that followed, even as they began preparations for the re-run.

The violence and confusion that followed the re-run election in Ekiti, which finally took place on April 25, 2009, emphasized the limits of progress made. The findings were not known for several days after the vote. After going missing for a few days, fueling speculation that she had resigned under duress, the resident electoral commissioner, Ayoka Adebayo, who had overseen the re-run, reappeared at INEC's Abuja headquarters to announce that she would return to Ekiti State to complete the results announcement. (The Punch, 30 April 2009).

When she returned to her post in Ekiti, the result again awarded victory to the PDP, fueling suspicions that the vote or, more accurately, the outcome had been rigged. When the results were announced, angry AC fans clashed with PDP thugs and security agents, causing a brief breakdown in law and order.

The AC candidate eventually returned to the ESEPT, complaining once more that the INEC outcome was a farce. This action was successful in October 2010, when Oni's election was declared invalid due to noncompliance with the Electoral Act. The AC candidate was promptly sworn in as Ekiti State's duly elected governor.

Mimiko vs. Olusegun Agagu in Ondo State

The governorship election in Ondo state in 2007 featured several political parties and candidates, including the incumbent PDP governor, Olusegun Agagu, who was competing for a second term.

The first petition was received on 15 April 2007, 24 hours after the PDP's candidate was declared the victor. The result was eventually challenged by four contestants, the most forceful of whom was the relatively unknown Labour Party candidate, Olusegun Mimiko, whose petition resulted in the removal of the PDP governor from office on 22 February 2009, when the CofA, sitting in Benin, declared Mimiko to be the rightful governor of Ondo State. In

In reaching this conclusion, the court was simply confirming the lower tribunal's decision, which had annulled the disputed poll and proclaimed Mimiko the victor. (The Guardian, 23 February 2009).

The verdict, like others before it, was met with broad joy and celebration. Akure, the Ondo state capital, erupted in a frenzy of jubilation almost immediately after it was read, with youths going to the streets in a victory dance along main roads and drinking spots that had been closed reopening. Thousands of residents gathered in the streets to enjoy what one described as a "majority triumph over minority oppression." (The Guardian, 23 February 2009). In the end, the removal of the former Ondo State governor went off without a major political incident, with the exception of a widely publicized message from President Umaru Musa Yar'Adua congratulating Mimiko and assuring him of his administration's complete cooperation (This Day, 28 February 2009).

Adams Oshimole vs. Oserheimen Osubor at Edo State

The governorship election in Edo State was also held on 14 April 2007, and the results were still being contested several months later, with the AC nominee, Adams Oshimole, a former president of the Nigerian Labour Congress, challenging the election of PDP candidate Oserheimen Osubor. The Edo State Elections Petitions Tribunal upheld Oshimole's petition in March 2008, invalidating Osubor's victory. This decision compelled the governor to submit an appeal with the Court of Appeal in Benin City, which he lost on November 11, 2008. (The Punch, 13 November 2008).

Professor Osubor, like other governors removed from office by Nigeria's increasingly assertive judiciary, left the state house in Benin City within 24 hours, demonstrating that Nigerian politicians have come to consider the judiciary's power as a *fait accompli*. The opposition's behavior in Edo State, even in the face of postponed justice, should also be highlighted. Throughout the litigation, the party and its leaders maintained faith in the judiciary's ability to bring justice. When Oshimole's appeal was started in 2007, he made the following statement:

The good news is that we are running a system that is based on the principles of separation of powers. So, the president could use INEC, police or even the army, but he does not have control over the judiciary – and there is enough evidence that a number of judicial pronouncements have embarrassed the federal government

Saturday Tribune, 22 March 2008

The judiciary proved him right.

Ifeanyi Araraume vs. Ikedi Ohakim in Imo State

Ikedi Ohakim, an opposition contender, won the Imo State election in 2007. Before becoming governor, Ohakim and his party, the Progressive People's Alliance (PPA), were little recognized outside of the state. Ohakim's popularity skyrocketed after the previously ruling PDP became embroiled in an illegal and potentially damaging nomination process, for which it was severely punished by both the courts and the voters.

Former senator Ifeanyi Araraume won the PDP gubernatorial primary. However, shortly after the election, the PDP leadership replaced Araraume with another lawmaker, Charles Ugwu, who had not run in the primaries. The party provided no reason for its decision, in violation of the Electoral Act. Araraume challenged his replacement in the Supreme Court, which ruled that it was invalid, adding that he was still the legitimate candidate in the eyes of the law. Instead of complying with the decision, the PDP withdrew completely from the Imo governorship election, leaving Araraume to compete without the support of his party. Ikedi Ohakim, a lesser-known challenger, easily beat Araraume.

Ohakim's victory was solidified further by later judicial interventions. His opponents moved to court after he took office in 2007 to challenge the outcome. The main challenge, ironically, came from Araraume, who asked the court to annul Ohakim's election, claiming that it had been marred by corruption and violence and that he, rather than Ohakim, had received a majority of the ballots cast.

Araraume also asked the court to order by-elections in nine local government areas where the alleged elections did not take place, alleging that INEC fabricated the results for those areas. (The Guardian, 24 March 2009). Finally, the

Imo State Elections Petitions Tribunal and the AC ruled that Ararume's petition lacked merit in every way and that he had failed to prove his case convincingly (Saturday Tribune, 8 March 2008), effectively ending the PDP's apparent plot to retake the state through the back door.

Peter Obi vs. Andy Uba and INEC in Anambra State

The governorship elections in 2007 were held concurrently in all 36 states of the federation, including Anambra State, where Peter Obi became governor in March 2006 after successfully challenging the election of Chris Ngige, who had been wrongfully declared the winner of the April 2003 governorship election by INEC. As a result, Obi had only been in government for 12 months, and despite believing his term was four years, he did not run in the 2007 election. Andy Uba of the PDP, a longtime aide and well-known ally of the then-outgoing president, Olusegun Obasanjo, won the election.

The key issue was when Governor Obi's term as governor would be considered over. Was it in April of 2007 or March of 2010? Unsurprisingly, Obi claimed that his term would conclude in March 2010. In the absence of a satisfactory resolution to this constitutional problem, INEC held governorship elections in Anambra on 14 April 2007.

Obi returned to the courts immediately after the election. This time, he went to the Supreme Court, asking it to rule on whether INEC's choice to hold the election was correct. In bringing the matter to court, he was backed by a large section of the Nigerian judiciary as well as the general public, who argued that Obi should have been allowed to serve for four years in accordance with the desires of the voters and the law.

Some lawyers, including well-known democracy and human rights activist Gani Fawehinmi, claimed that the CofA should be the final court in issues pertaining to a governor's tenure and that the Supreme Court should not have heard Obi's case in the first instance. But Obi's suit was merely to seek an interpretation of the Constitution's provisions as they applied to his tenure and, strictly speaking, did not challenge the election of any other individual - he was not seeking the annulment of the April 2007 election.

In the end, the Supreme Court decided that Obi's term should be extended until March 2010, and the Anambra State Elections Petition Tribunal declared Uba's election invalid win, vividly expressing a view indirectly expressed by the Supreme Court that holding an election when the tenure of the incumbent of an office has not ended was a 'mistake' (The Guardian, 15 June 2007) ^[13].

Conclusion

The presence of strong and independent oversight agencies, one of which is the judiciary, is one of the fundamental requirements for the survival and prosperity of a liberal democratic state. (Mbanefo 1975; Walraven & Thiriot 2002) ^[22, 36]. In many respects, competent and independent judiciaries are essential to democracy. (Leonard 2009, p 8) ^[20]. A good judiciary will not only be capable of checking government abuse of power (Davies 1990; Ige & Ige 2006) ^[15], but also of managing intra-elite disputes and/or conflicts that are bound to arise from the competition for power and economic resources involved in party politics in a multiethnic society. (Suberu 2001) ^[32].

Many of Nigeria's previous democratic failings were the result of the country's inability to build an impartial and

honest judiciary that commands the respect and trust of the majority of its fractious political class and deeply divided populace. (Olurode 1990; Unobe 1990) ^[28, 35]. Since 1999, when Nigeria transitioned from a military dictatorship to a multiparty democracy, some careful legal and administrative tinkering has transformed the country's court from an extension of the executive to an impartial and credible arbiter of political disputes.

Indeed, a review of the 2003 and 2007 elections, as well as the series of political disputes that followed, particularly those involving state governors wrongfully removed from office, shows that, while the Nigerian judiciary has not succeeded in introducing a culture of free and fair elections, solving the problem of judicial corruption, or even enthroning a flawless framework for electoral justice (Omotola 2010a; 2010b), it has undergone a significant transformation.

According to the country's former vice president, who won several legal wins in his political fights with former President Olusegun Obasanjo, "major elections have continued to be dogged by widespread irregularities, fraud, and violence. All hope is not lost, as the current position of the judiciary has been a sufficient saving grace." (This Day, 15 February 2009).

To put it another way, recent judicial reforms have had major political consequences. Despite the fact that Nigeria is still plagued by serious intra-elite wrangling, which frequently results in bloody political conflicts, the growing willingness of political elites to seek judicial avenues for conflict resolution has helped to maintain political stability and social harmony. Nigerian politicians are increasingly turning to the courts to settle their differences, and they have come to see accepting judicial verdicts, no matter which way they go, as being in their long-term interests. This explains why the Fourth Republic lasted so long.

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