

# Nigerian Democracy and The Judicial Arm of Government: A Comparative Discourse

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## **Abstract**

*Being the best form of government due to its principles of separation of powers by the three arms of government, the legislature, the executive and the judiciary as propounded by Baron de Montesquieu and John Locke's philosophy on division of powers, liberalism, limited government and of course the right to rebellion, Nigeria adopted democracy in 1999 at the eve of the new millennium after the exit of military regime that held power between December 1993 and May 1999. Though, in character and principles, Nigeria is practicing separation of powers but highly fusion and corrupted in practice. The problem is therefore, to examine the extent at which the judicial arm of government which is also the third arm of government is influenced by the executive as well as the legislative arm of government either through its policies, and finances to determine outcome of court rulings and verdicts and also make a comparative analysis between Nigeria judicial system and selected countries of the world practicing democracy. The theories of separation of powers was adopted by the writers of this paper to help explain the division, the roles and the importance of genuine separation powers in a democratic systemic settings. Questions were also raised on why judicial verdicts often times favour the ruling party. Finally recommendations were made as follows; there should be true independence of the third arm of government in appropriation and remuneration policies; water-tide-security should be provided for judges to avoid attacks after fair rulings; the third arm of government should copy transparency in adjudications from other countries of the world. The executive and the legislative arm of government shouldn't suppress and kill, the third arm of government as it remain an indispensable democratic institution that return hopes to the governed.*

**Keyword: Democracy, Executive, Legislative, Judiciary, Separation of powers and government).**

## Introduction

The Nigerian federation is made up of three distinct arms, the executive the legislature and the judiciary. These arms of government were created according to the principles of separation of powers as propounded by both John Locke 1632-1704 and Baron de Montesquieu 1748 in his book "the spirit of the law" John Locke proceeded Baron Montesquieu base on the principles that he had argued earlier that legislative powers should be totally divided between the monarch and the parliament. Therefore democracy is thought to be the best system of government as a result of the foregoing principles and other doctrine inherent in it. These principles, doctrines and institutions include, the "Rule of Law" which emphasis is on the supremacy of the law as well as equality before the law as propounded by Dicey in 1885, others are the fundamental human rights enshrined in various democratic constitutions, the court system under the third arm of government electioneering process as well as the press.

It is worthy enough to comprehend that many wars have been fought, many assassinations of kings emperors and queen, and of course significant and deadly revolutions taken place both in the ancient, modern and contemporary epochs to ousted dictators, fascism and autocratic regimes and monarch to initiate democracy and good governance. For instance, Julius Caesar was assassinated in 15<sup>th</sup> March BC 44 when some of the senators who later became conspirators feared that Caesar was becoming too strong and might suddenly emerge as the emperor and become a dictator in a republican Rome. The French Revolution took place in 1789 and ended in 1794 ousted king Louis and reduce the powers of monarch and get rid of dictatorship in order to usher in liberal government, through many years of constant struggle, the United Kingdom were able to reduce the powers of the kings and gave same to the parliament which directly represent the people. American Revolution took place in 1776 and liberal constitution and government was introduced thereafter.

The waves of democracy blew across Nigeria on the 29 May 1999 after a protracted military regimes that lasted for 15 years from 1983 to May, 1999. The principle of separation of powers was enshrined in the 1999 constitution that gave birth to democratic government. The system of government was presidential implying that no consideration will be given to fusion of powers. Section 1 Part II of 1999 constitution clearly spelt out the powers of the Federal Republic of Nigeria to include, the Executive Powers, the legislative powers and the judicial powers.

The purpose of this paper is therefore, to examine the activities and performance of the third arm of government, its utilization of its powers as enshrined in the 1999 constitution. The paper will also examine the extent at which it operates independently without the influence of both the executive and legislative powers in its adjudication process. Some of its verdicts and rulings will also be assessed to determine whether there are consistent with democratic principles. Judicial processes and rulings of selected countries of the world with democratic background will also be examined.

## Statement of Problem

The 1999 constitution of the federal republic of Nigeria recognizes three powers which include the executive powers legislative power and the judicial powers. Based on the principles of separation of powers as postulated by Baron de Montesquieu in 1748, the three arms of government are supposed to act separate and more so, without fusion in a presidential system. The legislature is saddled with the responsibility of making the law and also scrutinized fiscal appropriation by the executive. The executive on the other hand is to implement the laws and also initiate public policies subject to legislative approval. Accordingly, the judiciary interprets the laws through adjudications, and punishes offenders and law breakers.

A country is presumed to be democratic in character when the three arms of government are allowed to operate separately without interference by another arm of government. It is by this principles that they act as check and balances to one another and since it is a liberal government the people will therefore reaped what is also known as dividend of democracy.

In Nigeria, the executive and legislative arm of government seems to seriously influence the judiciary in its court rulings. The problem is therefore as follows: why is it that no matter how

bad election is the court ruling favours the sitting president and his party? And why has it been that the ruling party hardly lost court verdicts? Is it the same way judiciary operates in other countries operating democratic system of government?

### **Theorization**

The theory of separation of powers was adopted in this study to try to explain the various responsibilities of the three arms of government which according to the provision of the 1999 constitution of the Federal Republic of Nigeria are viz; the Executive, the Legislature, and the Judiciary. These three arms of government according to the principles of separation of powers propounded by a Frenchman, Baron de Montesquieu in 1748 are supposed to function separately and independently serving as “watch dog” to one another in order to enhance adequate checks and balances in a democratic administration.

John Locke, a British political philosopher who lived between 1632-1704 is however credited as the founder of modern liberalism and the first to mentioned division of power between the king and the parliament. His emphasis was however centered between the monarch and the legislature without the involvement of judiciary. But however analysts and critics want to look at it the conclusion is that he made emphasis on separation of powers to check arbitrary use of powers by the monarchs. Separation of powers is a feature of presidential system of government while the parliamentary system of government operates fusion of powers and all are classified as democratic governance depending on the extent of liberty inherent in the administrative system in that particular period of operation.

In as much as the theory of separation of power doesn't allow concentration of political powers by one organ of government, it has prevented the emergence of dictatorship, and tyranny government in most of the contemporary states. Separation of powers prevents those that make the law from interpreting the law and shouldn't be the one to punish offenders of the law. Theory of separation of power prevents dictatorial governance, promotes and foster fundamental human rights, it has democratic features, it promotes the rule of law, create division of labour, it enhances efficiency, it also promote checks and balances, projects stability and political progress and finally the theory prevents domination. The shortcoming of this theory being that it delay decision making and encourages unhealthy rivalry among the three organs of government.

### **Clarification of concepts**

**Nigeria:** Nigeria is a country in West Africa with a total population of 223,804,632, as at 2023, making up an increase of 2.4% from 2022, as the 2022 population of Nigeria was 218,541,212, 92.41% increase of 2021 population. The country has a total area of 923,768km<sup>2</sup> (356,669 sq. mi) making it 32<sup>nd</sup> largest country in the world. It made up of 36 states and 776 local government areas. There are about 371 tribes in Nigeria and the major tribes being Hausa-Fulani, settled in Northern Nigeria, the Yoruba people to the West and the Ibos to the East. It has borders with Niger Republic in the North, with Chad Republic in the North-East, Cameroon in the East, Benin Republic in the West and Atlantic Ocean in the South. The country operates democratic system of government which began since May 1999.

**Democracy:** Democracy is liberal government. It is government by the concern of the governed. It is a system of government where all the citizens participates in decisions and policies making process through periodic elections to vote their representatives to parliament, national or state assemblies, congresses as well as their president, governors and local government chairmen/mayor and councilors. The concept of democracy is derived from two Greek words “demos” meaning people and “kratia” meaning power, rule. It is on these concepts that Abraham Lincoln defined democracy in (1858) as government of the people by the people and for the people.

**Judicial Arm of Government:** The principles of separation of powers placed judiciary as the third organ of government. More so, the 1999 constitution of the Federal Republic of Nigeria in part II of its schedules – powers of the Federal Republic of Nigeria also placed the judiciary as the third powers of the Federal Republic of Nigeria. The 1999 constitution named the powers in the following order:

1. The legislative powers
2. The executive powers
3. The judicial powers

### **Constitutional responsibilities of the legislative powers**

“All laws enacted by state House of Assembly that are inconsistent with any validly made law by the National Assembly, the law enacted by National Assembly shall prevail and other laws shall to the extent of inconsistency be declared null and void” (1999 Constitution Part II Schedule 5).

Accordingly, the National Assembly according to the Constitution shall have the power to make laws for good governance of the Federal Republic of Nigeria. Other functions and responsibilities of the legislative arm of government include; rectifying executive appointments; approval of annual budget of the federation; government treaties ratification; investigating the executive arm of government; carrying out impeachment processes to remove from office a corrupt and defaulted president; approval of appointment of judges to the supreme court; and also redressing constituents grievances.

### **The functions of the Executive Arm of government:**

The Executive power according to the 1999 constitution of the Federal Republic of Nigeria shall be vested in the president and “may subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the vice president and ministers of government of the federation or officers in the public service of the federation, and extent to the executive and maintenance of the constitution ... (Part II) schedule 5, 1999 Constitution).

Other functions of the executive branch of government include; the power to embark on war by engaging its military to fight for National Interest as well as to make and maintain peace and order in the country; it is the responsibility of the executive to make foreign policies that will keep the country in good and healthy relationship with foreign countries; more of its functions include, making and signing of treaties on behalf of the country, powers to appoint and withdraw ministers and Ambassadors, service chiefs, heads of parastatals, assent to bill from the National Assembly, semi judicial power and more.

### **The functions and powers of the Judicial arm of government**

The judicial powers of the federation shall be vested in the court being court established for the federation on (Schedule 6 Part 1, 1999 constitution). Other powers of the judicial arm of government in Nigeria according to 1999 Constitution include interpretation of the laws of the federation made by the legislative arm of government and assented by the executive branch or in other circumstance vetoed by the legislative branch or in other circumstances.

The courts belong to the third arm of government, the constitution therefore empowers the court to adjudicate cases in the court and also punish those who contravene the laws of the federation. Moreover, the judiciary also advises the legislature as well as the executive branch of government on sensitive constitutional matters. It is by the provision of the constitution saddled with the responsibility to defend the rights and liberties of all Nigerian citizens irrespective of their class in the society. It is the powers of the judicial arm of government to enforce judgment after fair hearing from a competent court of jurisprudence. The third arm of government is the Guardian of the constitution of the federal republic of Nigeria, by ensuring that the constitution remains supreme.

### **Functions of judicial branch of government in Philippines**

The power of the third arm of government in the Philippines is vested in the supreme court of the Philippines as well as lower courts established by law. The chief justice is the Head of the country's Supreme Court alongside fourteen (14) associate justices. The justices retire at the age of 70. The third arm of government in Philippines is mandated by the constitution to settle abuse of citizens' rights and other controversies that are legally demandable and enforceable. It

also hold the power to determine whether there has been grave abuse of power and discretion amounting to either lack or excess of jurisdiction on the part of government. The 1987 constitution of Philippines empowers the judiciary to enjoy fiscal autonomy, to exercise original jurisdiction over cases affecting high political appointees under the executive arm such as ambassadors, and other public ministers over petition before the court for certiorari, habeas corpus, mandamus, prohibition, and quo warrantor, the court is entitled to promulgate rules concerning the enforcement and protection of the constitution and the rights of the citizens.

### **Ghana Judicial System**

The 1992 constitution of Ghana empowers the judicial arm of government to save guard the constitution by establishing the Supreme Court and other courts to interpret the constitution, advise both legislature and the Executive on sensitive and critical constitutional matters. The supreme court of Ghana is the final court of appeal with jurisdiction over constitutional matters, while the court of appeal has its jurisdiction on appeal from high court, the high court deals with criminal cases but not when they are related to treasonable felonies. Other courts in Ghana include circuit court, and district courts.

All the courts are headed by judges except district courts which are headed by Magistrates. Just like Nigeria and the Philippines, Ghana judiciary also have the following functions as enshrine in the 1992 constitution; to protect the fundamental rights and liberties of the citizens, to ensure that the constitution of Ghana remain supreme and all men subjected to it and treated the same not minding the variation of their social strata. Judiciary of Ghana is also saddled with the responsibility of resolving disputes.

Chapter 011 number 3 of the 1992 constitution of the Republic of Ghana lays authoritative emphasis as follows;

That the judicial power of Ghana shall be vested in the judiciary, therefore, neither the legislature nor executive branch of government, or any other organ or agency of legislature or the executive shall have or be given final judicial powers.

### **The judicial branch of government in South Africa**

The 1996 Constitution of the republic of South Africa (RSA) contains essential principles of democracy known as separation of powers. This implies that the powers of the Republic is divided between three arms of government which operations is however interdependent. These components or branches of powers include; the legislature (also known as parliament) the executive (also called cabinet) and the judiciary (courts of adjudication) section 166 of the constitution of the Republic of South Africa which establishes the judicial system created following the courts;

- a. Constitutional court, which status and functions are as that of Nigeria, the Philippines and Ghana is the highest court of the RSA.
- b. Supreme court of appeal;
- c. The high courts
- d. The Magistrates courts

Again, similar to other countries mentioned above the judges are the heads of all the courts except the Magistrate courts which are presided by Magistrates. The judicial branch of government does similar responsibilities of interpretation of the law and authoritative adjudication of the legal system by protecting the fundamental rights of citizens of the Republic of South Africa; the courts also settle controversies between the government and the citizens and the citizens versus citizens; the judiciary arm of government is also mandated by the constitution to ensure equal justice under the law to all citizens of the Republic.

### **The Role of judiciary in the United Kingdom (UK)**

The Supreme Court which was established in 2009 in the United Kingdom of England, Wales Scotland and Northern Ireland is the highest court of adjudication. The functions of the court system are to interpret the laws in a manner intended by the parliament; the 1998 Human

**Table 2: Respondents view on why people move to Port Harcourt**

Right Act of parliament empowers the judiciary to interpret and apply the laws as enacted by it. The judiciary as guard is mandated to protect the constitution of the state protects the rights of the people and dispenses justice.

However, the court system of England and Wales are Unified as they have their origin from medieval common laws principle. Northern Ireland and Scotland have separate judicial system. However, the Northern Ireland judicial system have close resemblance with that of England and Wales , while the Scotland operates a combination of both civil law and common law system referred to as hybrid model.

The supreme court of the United Kingdom is the final court of appeal for criminal and civil cases with origination from England, Northern Ireland and Wales. Before the creation of Supreme Court in 2009, the final appeal were of course heard by the House of Lords Appellate Committee (referred as the "Law Lords")

**The French Judicial System**

France have two categories of jurisdictions; the court that adjudicate cases between private individuals or citizens and punishes offenders of the penal law, and of course the judiciary that is responsible for administrative judicial system that is charged with dispensing and settling of lawsuits between the public institutions such as the state, local and public establishments, and private citizens. Accordingly, "Grande instance" are higher courts in France while "tribunaux d'instance" are lower courts. These courts replaced "Justices" of the peace that existed in 1958. The courts for criminal cases are "tribunaux correctional (Courts of correction)" while "tribunaux de police or police courts have jurisdiction on minor offences.

**The Judiciary of United States of America (USA)**

The United States of America Judiciary Act of 1789 empowers the Supreme Court which is the highest court of jurisprudence created by article III to have original jurisdiction as enshrined in the constitution in article III. The congress however decided that it could regulate all Federal courts, that the federal district courts as well as circuit court would have limited jurisdiction. The main function of the judicial branch of government of the United States is to interpret the laws and punish the offenders and lawbreakers. The United States has two types of court systems which include, the federal court system and the state court system. Municipal and the local courts are all state court system. Moreover, the responsibilities and are, to make sure there is due process of law, to provide equal protection without discrimination, maintenance of the rule of law resolve disputes, protection of human rights and liberty and to ensure social order.

**Analysis of selected Court Verdicts/Rulings in Nigeria on Political matters**

The 1999 General election conducted by Independent National Electoral Commission (INEC) on February 27, 1999 had two president candidates, Chief Samuel Oluyemi Falae of All Peoples Party (APP) and Chief Olusegun Obasanjo of the People's Democratic Party (PDP) on March 1, 1999 INEC declared 11,110,287 votes for the APP Presidential candidate and 18,739,154 as votes scored by chief Olusegun Obasanjo as duly elected president of the federal republic of Nigeria.

The APP presidential candidate was of course grieved and petitions the elections on March 15, 1999 on the following grounds; Non qualification, disqualification, corrupt practices, irregularities during the elections, disappearance of ballot papers, electoral offences and gross malpractices during the election. Other allegations were that Olusegun Obasanjo was a member of Ogboni adjudged guilty of treasonable felony by a tribunal. At the end of the judgment the petition was squashed for lack of merit and Olusegun Obasanjo declared winner.

In 2003 presidential polls which the incumbent president Olusegun Obaanjo won with 62 percent of the vote against ANPP presidential candidate Mohammadu Buhari trailed behind him with 32 percent of the vote. Buhari of ANPP wasn't satisfied with the manner in which the

election was conducted, again, according to US state department report, the 2003 presidential polls which president Obasanjo of PDP emerged victorious was marred with grossed irregularities and fraud and also characterized by violence. Buhari, who petitioned that there was significant electoral fraud in at least 16 of 36 states of the federation. In Ogun state, where PDP won with 99.9 percent, the appeal court annulled the polls and the Supreme Court later reversed the decision on Ogun for lack of sufficient evidence. Finally, the Supreme Court upheld and confirmed the ruling by a lower court that dismissed the challenge by Muhammadu Buhari of ANPP. Buhari however responded that the ruling was based on political considerations.

2007 presidential election that brought in President Umaru Yar'Adua of PDP was according to the report of international observers "massively rigged by PDP to usher in the flag bearer of the party as president. The elections were conducted on April 27, 2007. Umaru Musa Yar'dua of PDP scored 24,638,063; Muhammadu Buhari of ANPP had 6,605,299 while Atiku Abubaka scored 2,637,848 votes. In December 12 2008 the supreme court of Nigeria upheld the results of April 2007 presidential elections that declared Umaru Yar'dua of PDP winner. But Ojo (2011) reported that the 2007 elections was highly flawed and failed to meet acceptable international standard, the supreme court which has the final adjudication right in Nigeria upheld the verdict of the lower court and declared that the elections were fair.

In April 2011 general elections, president Goodluck Jonathan of PDP who was the Vice President to Umaru Musa Yar'dua and became president after his death emerged winner with 22,495,187 while Muhammadu Buhari of CPC scored 12,214,853 and Nuhu Ribadu of CAN followed with 2,079,151. The results of the election was again petitioned by the CPC candidate Muhammadu Buhari for perceived wide spread irregularities. However, Justice Olufunmilayo Adekeye of the Supreme Court upheld the ruling of the lower court and declared President Jonathan as the actual winner of the April 16 2011 election. The Supreme Court rejected calls by the opposition party for a recount in numerous states. Again, in 2015, general election, opposition candidate Muhammadu Buhari finally won the incumbent president Goodluck Jonathan which he conceded defeat on 31<sup>st</sup> March 2015.

### **Analysis of court adjudications from 2009-2015**

From the foregoing one is made to understand that the Nigerian judiciary passes its ruling and verdicts to reflect and satisfy the president or party in power. From all perspective, there are clear indications that the third Arm of Government is not actually independent and separated from the Executive arm. Several elections were marred with gross irregularities, as military personnel, their tankers and fire powers were roll out of barracks to conduct elections for the incumbent presidents and their party. Peoples Democratic Party (PDP) rule the country for sixteen (16) years and all judgment were in their favour.

### **Outcome of 2019 and 2023 Election Tribunals in Nigeria**

The outcome of presidential election conducted in February 2019 showed that president Buhari of APC won the election with 15,191,847 votes while Atiku Abubakar of PDP scored 11,262,978. Atiku Abubakar was not satisfied with the outcome of the election and therefore petitioned with the claim that the election was marred by irregularities, that he actually received more electoral votes than Buhari and that president Buhari didn't have secondary school certificate as a fundamental requirement to stand for the election. Justice Mohammed Lawal Garba of tribunal court dismissed the petition on September 2019 and upheld the election results stating that Atiku Abubakar failed to sufficiently prove allegations of electoral fraud. Atiku proceeded to the supreme court for final adjudication, the supreme court made up of the six court justices headed by Justice Tanko Mohammed upheld the judgment of the lower court and dismissed the petition filed by the main opposition.

Tinubu of APC scored 8,794,726 popular electoral votes in February 2023 general election to emerge the president of the Federal Republic of Nigeria, Atiku Abubakar of PDP came second with 6,984,520 votes, Peter Obi of Labour Party in close circuit with the PDP candidate came

third with 6,101,533 votes. The election was petitioned by major oppositions both Atiku Abubakar and Peter Obi as well as other minor opposition that latter withdrew their petitions. The petitions claimed that the election was marred with irregularities as Independent Electoral Commission (INEC) decided to abandon the Bimodal Voter Accreditation System (BVAS) that the government spent so much to acquire and returned to manual counting of electoral votes. Again opposition leaders that petitioned president Ahmed Tinubu win argued that section 134 (2) (b) of the 1999 constitution (as amended stipulates that for any candidate to be declared winner in presidential poll, the candidate must secure at least 1/4<sup>th</sup> (25%) of votes cast in 2/3<sup>rd</sup> of the 36 states of the Federation (which implies that the candidate must have this in 24 states). The candidate, according to the constitution must also secure not less than 25% of the vote cast in Abuja (the Federal Capital Territory). The presidential candidate of Labour Party secured the 25% of votes in FCT but president Tinubu did not. On September 6, 2023 the Tribunal Court made up of five judges rejected opposition petition to overturn the February presidential election won by president Tinubu. In October 2023 Supreme Court finally upheld the verdict of tribunal court and declared President Tinubu as the rightful winner of the election. PDP however remarked that it was alarmed and disappointed by the Apex Court ruling and further reiterated that the judgment eroded the confidence of Nigerians in the judiciary, remarkably the apex court.

### **Lessons from Nigerian Judicial Verdicts**

Judicial verdicts in Nigeria seem to favour political parties in power. When the People Democratic Party (PDP) was in power, all presidential election tribunals and Supreme Court rulings favoured the party. President Muhammadu Buhari contested three times during the reign of three times during the reign of PDP and petitioned the court as many times as he contested and loss, the rulings never favoured him. Immediately Buhari APC won election in 2015 and came on board, all court rulings and verdicts after elections tilted in favour of APC. Many observers of Nigerian democratic process have opined that if democracy fails in Nigeria, the judiciary will be hugely responsible for its dead. One could imagine why very senior citizens referred to as judges-could allow politicians to influence and rubbished their noble profession. The masses are left with little or no confident to an arm of government that is referred as the last hope of the common man. Now that APC is in power only a liberal APC Jonathan's could turn things round for Nigerians not the judiciary.

### **Court verdicts in Ghana that strengthens its Democracy**

In 2012 the supreme court of Ghana dismissed a petition challenging the presidential electoral results of December 2012. The Independent Electoral Commission of Ghana had declared John Mahama the winner in the highly competitive electioneering process. He won with a wide margin of 325,000 votes out of 11 million cast. The supporters of Nana Akufo-Addo were not satisfied with the results on the ground that about 500,000 votes were miscalculated and not properly signed off, while many more were double counted. The supporters therefore challenged the results in court. After the Supreme Court heard the argument in sessions that lasted over six months, it upheld the victory of John Mahama stating that the court didn't find sufficient cause to order a new vote. The United States of America and other International Community hailed the outcome of Supreme Court judgment.

### **South African Judiciary**

On May 20 2024 South African highest court barred former president Jacob Zuma from running for parliament in May 29, 2024 election. It stated that Zuma's 15 months jail term disqualifies him from contesting. He was convicted in 2021 for refusing to testify at an inquiry investigating corrupt practices during his presidency that ended in 2018. The electoral commission responded by removing president Zuma name from the party list.

In December 2016, the New Patriotic Party (NPP) candidate and main opposition Nana Akufo-Addo won the incumbent president John Mahama in a tightly contested election on



which was believed to be free, and fair, as well as transparent, inclusive and peaceful. In 2020 elections results, Ghana Electoral Commission declared Nana Akufo-Addo the incumbent president and NPP candidate winner but John Mahama, the major opposition petitions the results that the election was marred with irregularities, double voting, vote padding and other forms of illegal voting. The Supreme Court dismissed the petition and made recommendations for reforms of the electoral process. Nice that the judiciary ordered for reformation and overhauling of the electoral system.

### **The United State Judiciary Decision on key Political Matters and politicians**

On December 12, 2000 the United States Supreme Court decided a critical case between W. Bush of Republican Party and Al Gore of Democratic Party. The supreme court of the United States reversed an order by the supreme court of Florida State for selective manual recount of Florida's United States Presidential election ballots. The decision ultimately awarded 25 Florida's Electoral College votes to republican candidate George Walker Bush, thereby emerging, the winner of the Florida's election. Al Gore, the Democratic candidate was at the time Vice President of the United States while President Bill Clinton was the president. Al Gore lost the presidential election. The supreme court of the United States didn't rule the case in favour of the ruling party and the party in government didn't influence the court ruling as practiced in Nigeria. On January 6, 2024, a New York Court found former president Trump guilty on 34 felony leveled against him of falsifying business record that relates to hush money payment made by his onetime lawyer and council Michael Cohem to Adult Film Legend Stormy Daniels in 2016 elections. It is of course the first time a U.S. former president is convicted of a crime. The former president will be sentenced on July 11, 2024.

In 2000, a tribunal court in Nigeria, Justice Oputa's Panel trying corrupt practices during the period of military administration from 1983 to 1999 invited former Heads of states major General Ibrahim Babangida and Buhari to appear before it, for Cross examination. The two General didn't appear, implying that they're greater than the laws of federal Republic of Nigeria. The Judiciary did not order their arrest for contempt of court.

### **Court Verdicts in France**

French Court once sentenced French former president Nicolas Sarkozy to one year in prison for illegal campaign financing. The court however reduced the Jail term to half a year (6 Months). The Paris Court confirmed a lower Court ruling that found the former president of hiding illegal over spending in his 2012 re-election bid. Another indication that the French citizens are equal before the law and no one person, not even the president or former president is above the law.

### **UK Court Proceedings on Election petitions.**

On 6 May 2021 A petitions that challenged the elections of three Wycombe independent candidates to Buckinghamshire Council alleged that the election was rigged stating that 80 ballots with votes for Liberal Democratic Candidate were tempered with by inflating vote's for other candidate. The petition demanded for a recount of the ballots which the court granted after the recount the independent candidate received 107 votes more than the petitioner and the court dismissed the petition and upheld the results.

The beauty here is that a recount was made to satisfy the petitioner

### **Concluding remarks**

The Judiciary is an essential arm of government and the last hope of the people. Therefore what is expected of this institutions in democratic system is fair adjudication of Justice and equal treatment of all as propounded by A.V. Dicey in his theory of the Rule of Law so much is expected of Judiciary in all democracies including Nigeria. Many have in recent time suggested that if democracy failed in Nigeria, Judges should be held responsible. Judges in Nigeria shouldn't allow themselves to be used as puppets by the executive and legislative arms of government.

The court should therefore shun financial influences and whatever intimidations and uphold and defends the constitutions of the federal Republic.

### Recommendations

On January 25 2019, President Muhammadu Buhari arbitrary sacked the chief Justice, Walter Onnoghen without senate approval where he lacks the two-third majority needed to suspend or oust the Chief Justice the single act contravene the law and made him a democratic dictator. He is second to Murtala Mohammed who sacked a chief Justice in 1975 under military administration. In order to sustain an efficient Judiciary, the following recommendation is hereby made:

- ◆ The Judicial arm of government should have financial independence like the Philippines. A special Judiciary account should be created and their salaries for the entire financial year be released from the beginning and domicile in the account to enable the arm of government pay themselves.
- ◆ The Judiciary should also be attached with special security force that is answerable to the Head of Judiciary.
- ◆ The Chief Justice of the federation should be mandated to appoint the Election Tribunal Judges.
- ◆ Justices shouldn't be dismissed or sacked before the expiration of their tenure. Cases of fraud should be investigated and tried after their tenure of office except on mass protest and agitation.
- ◆ There should be true separation of powers between the arms of government in Nigeria and none should have control over the other Nigeria can copy the example of U.S.A., the U.K., south Africa, France and other countries with true separation of powers.

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