

The Judiciary and Democratic Politics in Nigeria

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Abstract

Constrained by the unfavorable societal conditions that shape it, the record of the Nigerian judiciary in promoting democracy has been mixed at best. The judiciary is part of the state structure and shares a common political culture with other state institutions. It is dependent on them for the resources needed for its institutional development and the enforcement of its judgments. It is yet to achieve a degree of durable institutional autonomy, which can help guarantee its independence from other political actors and institutions. The study adopted a survey design and content analysis of media reportage and review of some judicial pronouncements. It was observed that the judiciary have played key role in shaping democratic politics in Nigeria. The major recommendation of the study was that the judiciary through its procurements should strength existing electoral laws rather than making new ones. Another recommendation was that the government should consider a review of the constitutional provisions on democracy and political participation in order to make adequate provisions not only for political participation but also for mobilization of the people to participate as well as democratization of the political parties.

Keywords: judiciary, democracy, politics, elections, judicial pronouncements

Introduction

The presence of an autonomous judiciary is widely seen as an essential component of a democratic system. The power of the legal spirit can be attributed to the influential legacy of British idea of justice, which has shaped the unique characteristics of English institutions. Simultaneously, the functionality of democratic institutions in Nigeria, such as the cabinet, parliament, and political parties, exhibited significant deficiencies and encountered substantial challenges under both direct and indirect governance (Ghous & Anjum, 2014). However, the judiciary institutions in Nigeria have demonstrated a commendable track record. The judiciary has been accorded a certain degree of respect even by the military authorities. Similarly, numerous justices of the Supreme Court and High Court have exhibited bravery and resolute commitment in upholding the principles of the legal system. The presence of an autonomous judiciary is vital in safeguarding the constitution, upholding the principles of the rule of law, and so promoting societal order and democratic governance. The lack of an independent judiciary ultimately results in societal chaos. The Nigerian judiciary has demonstrated commendable performance in challenging conditions. The establishment of a legal framework has been crucial in upholding the principles of justice, safeguarding the fundamental rights of individuals, and enabling their active participation in the democratic process by means of political party affiliation and engagement (Ikram, 2011).

It would be an unsound assertion to claim that the judiciary in Nigeria has consistently exercised its utmost authority to prioritize the welfare of the State over that of its citizens. Throughout a significant portion of its existence, the country has been under the governance of the military, which has had influence on many policies and individuals, both explicitly and implicitly. The entity in question exerted influence over the country's economic state during the 1970s, navigating through multiple periods of turmoil that persisted throughout the late 1970s and 1980s (Ghous & Anjum, 2014). However, it remains burdened by several significant and debilitating events from its historical trajectory. This particular organization has actively supported and, in numerous instances, facilitated and advanced elements of hostility and intolerance throughout society.

Nevertheless, recent occurrences in Nigeria indicate that the judiciary has not demonstrated sufficient strength in addressing instances of constitutional infringement or departure. On numerous instances,

when individuals in positions of authority have disregarded or temporarily halted the implementation of constitutions in order to achieve their political objectives, it did not place undue pressure on the constitution (Mian, 2014). The invocation of contradicting and irregularly dubious beliefs, such as the notion that achievement in achieving a goal confers authenticity, either accepted or lent validity to these practices. The influence of the higher judiciary on democratic growth is seen in its impact on the absence of opposition parties, primarily through the deliberate or unintentional postponement of judgements on significant matters. The judiciary of Nigeria has exhibited a mixed record in its support for democracy, primarily due to the constraints imposed by unfavourable common events that have influenced its development. The Judiciary is often perceived as failing to uphold the principles of the rule of law and adhere to democratic norms, despite its remarkable efforts in navigating challenging situations (Ghous & Anjum, 2014).

However, this work attempts to understand the judiciary and democratic politics in Nigeria. The paper provides an insight to the understanding of the legal cases in which the imposition of martial laws and dissolution of assemblies has been challenged before judiciary in Nigeria. The aforesaid judgments of the superior courts have played a decisive role in setting the political history of Nigeria towards democracy.

The Concept of Democracy

The concept of democracy is regarded as one of the elusive notions within the realms of social and political sciences, since it lacks a universally agreed-upon definition that is endorsed by any individual or specific organisation. Dahl (1976) cited in Asaju (2015) defines democracy as a "political framework characterised by the broad distribution of decision-making participation among adult citizens." According to Joseph Schumpeter, democracy can be defined as a political system wherein individuals gain the authority to make choices through a competitive effort for the support of the electorate (Kaur, 2012). Dahl discusses the concept of "Poliarchy," which encompasses two explicit dimensions. Firstly, there is the aspect of competition, which entails structured contention through periodic elections that are both free and fair. Secondly, there is the element of participation, which denotes the entitlement of nearly all adult individuals to exercise their voting rights and engage in electoral campaigns for elective positions. Furthermore, the concept of civic liberty emerges as a significant aspect and maybe the third dimension within the framework of poliarchy, as discussed by Samuel (2011) and Kaur (2012).

The term "democracy" may be traced back to its etymological origins in ancient Greek, where it is derived from the combination of two words: "demos," which refers to the people, and "kratos," which signifies rule or governance. Consequently, the term "democracy" can be understood as denoting a system of governance in which the people have the authority to rule (Wikipedia). Democracy may be understood as a form of governance that prioritises the interests and welfare of the people. This concept was eloquently articulated by Abraham Lincoln, the 16th President of the United States, who defined democracy as a system of government that is characterised by the active participation and representation of the people, ultimately serving their needs and aspirations (Procter, 1978, as cited in Ololobou, 2014). According to Chaji (n.d.), democracy can be defined as a system of governance in which the power and authority reside with the people. Therefore, democracy may be succinctly characterised as a form of governance that involves the active involvement and participation of the general populace, namely, the people. The concept of democracy that places emphasis on the well-being and agency of individuals is a significant obstacle to the practise of democracy. The governance of any political system is contingent upon the authority vested in the populace. However, a fundamental inquiry arises as to the precise definition and composition of the term "the people." According to Kaur (2012), it is contended that no state or city has ever existed where the term "the people" encompasses every citizen within that state or city. In the context of the Athenian City, it is important to note that the concept of direct democracy did not include universal participation in decision-making by all individuals inside the city.

According to Kari (2013), democracy may be understood as a collection of values and practises that have developed and are implemented by a collective body of individuals. These concepts serve as the foundational premises on which democracies are based. These principles exhibit a high degree of uniformity or strong similarity across several locations. Among the most prevalent

principles are freedom, equality, public participation, and choice, among others. This refers to a system of government that enables a wide population to participate in the selection of their leaders, while also ensuring the provision of a diverse set of civil rights and benefits. According to Agbo (2018), the future of Nigeria's democracy is contingent upon the establishment of a proficient electoral system that can effectively drive it, similar to the advanced democracies of Britain and the United States of America. According to his perspective, it is necessary for the system to possess robustness and adaptability in order to effectively navigate the intricate nature of the federation. Additionally, it should exhibit fairness in order to adequately accommodate the unique characteristics of Nigeria's diverse population. The implementation of such a system would instill optimism among minority groups and provide reassurance to the majority, emphasizing Nigeria's commitment to inclusivity and equitable representation for all stakeholders. In the nascent framework, a substantial proportion of eligible voters would exhibit a strong inclination to participate in the election process due to their trust in the integrity of the system and recognition of the significance of their individual ballots. All of these factors are contingent upon effective governance (Agbo, 2018; Kari, 2013).

The Concept of Judiciary

The judiciary is a critical pillar of a country's democratic system, responsible for upholding the rule of law, protecting individual rights, and ensuring justice is dispensed fairly and impartially. Nigeria's judiciary plays a pivotal role in the nation's governance, and its structure and functions are deeply rooted in the country's legal history and constitutional framework. Over time, a combination of indigenous customary laws, Islamic law (Sharia), and British colonial legal traditions have influenced Nigeria's legal system and judiciary. The introduction of British common law during colonial rule left a lasting impact on Nigeria's legal system (Edubirdie, 2022). This rich blend of legal traditions laid the foundation for the modern Nigerian judiciary. The Constitution of the Federal Republic of Nigeria established and governs the Nigerian judiciary, according to Efobi and Ekop (2021). The Constitution, which is the supreme law of the land, provides for the separation of powers among the executive, legislative, and judicial branches of government. This separation of powers is crucial to ensuring checks and balances within the government. However, the Nigerian judiciary is organised into several tiers, each with its own specific functions and jurisdiction:

The Supreme Court: This is the highest court in Nigeria and serves as the final court of appeal. It primarily deals with constitutional matters, disputes between states, and appeals from lower courts on significant legal issues.

The Court of Appeal: Below the Supreme Court is the Court of Appeal, which hears appeals from the High Courts, Sharia Courts of Appeal, and Customary Courts of Appeal. It is divided into divisions, each responsible for specific regions of the country.

The Federal High Court: This court deals with matters relating to federal laws, including issues concerning human rights, citizenship, and federal agencies.

The State High Courts: Each of Nigeria's 36 states has its High Court, which handles civil and criminal cases within the state's jurisdiction.

Sharia Courts of Appeal and Customary Courts of Appeal: In some northern states, Sharia and Customary Courts of Appeal exist to administer Islamic and customary laws, respectively, alongside the regular legal system.

Magistrates' Courts and Area Courts: These lower courts handle fewer complex cases, including small claims, minor offenses, and customary law matters (Efobi & Ekop, 2021).

Furthermore, one of the fundamental principles of Nigeria's judiciary is its independence from the other branches of government. The judiciary is expected to interpret and apply the law impartially without interference from the executive or legislative branches. This independence is crucial in upholding the rule of law and protecting citizens' rights (Wade & Bradley, 2015).

A Synoptic Analysis of the Judiciary and Democracy

As previously mentioned, the notion of the judiciary serves as a fundamental cornerstone within any democratic society. The judiciary assumes a vital role in all other conceptual frameworks. The absence of a judiciary raises concerns regarding the democratic nature of society. There exists a correlation between the concepts of judiciary and democracy. Indeed, there exists a certain level of

interconnectedness among them, a fact that has been acknowledged by several international instruments. The two components form the integral foundations of a progressive and enduring democratic governance structure.

The Judiciary and Democracy as a Fundamental Civil and Political Structure

The connection between the Judiciary and Democracy is inherently interdependent, as the existence of a functioning judiciary is essential for the establishment and maintenance of a democratic system. The presence of this correlation is not novel, as it is explicitly outlined in various international human rights treaties. According to the Universal Declaration of Human Rights (UDHR), every individual possesses the entitlement to participate in the governance of their nation, either directly or by means of representatives of their own choosing (Agbor, 2015). Additionally, it is specified that the right to equal access to public service within one's nation is affirmed. Furthermore, it states that the authority of the government shall be derived from the will of the people, which shall be expressed through regular and authentic elections. These elections shall be conducted through universal and equal suffrage, ensuring that all individuals have the right to vote without discrimination. Moreover, the voting process shall be conducted through secret ballots or other comparable methods that guarantee freedom and fairness (Stokes, 2016).

The relationship mentioned above is once again addressed in the International Covenant on Civil and Political Rights (ICCPR). According to the ICCPR, it is stipulated that all individuals possess the entitlement and the ability to engage in the management of public matters, either by direct involvement or by selecting representatives of their own volition. Furthermore, the document explicitly references the entitlement to "participate in elections and run for office in authentic, regular intervals, with voting rights extended to all individuals on an equal basis, ensuring the confidentiality of the ballot, and safeguarding the unrestricted manifestation of the electorate's preferences" (Agbor, 2015).

The acknowledgement of the connection between the judiciary and democracy extends beyond the borders of Nigeria. Furthermore, some regional inter-governmental organisations have explicitly identified the establishment of a strong connection between the court and democracy as one of their key objectives. The Inter-American Democratic Charter (IADC), which was declared by the General Assembly of the Organisation of American States, asserts that the populations of the Americas possess an entitlement to democracy, and it is the responsibility of their respective governments to actively foster and safeguard this democratic system (Agbor, 2015). Furthermore, the text reinforces the connection between the judiciary and democracy by asserting that democracy is essential for the efficient implementation of fundamental freedoms and human rights, which are universal, indivisible, and interdependent. These principles are incorporated within the institutions of states. These diverse instruments, encompassing both global and regional contexts, offer compelling evidence of the universal recognition and affirmation of the right to democratic governance worldwide (Franck, 2012).

The presence of an effective judiciary is a prerequisite for the establishment and functioning of a democratic system. For instance, individuals would be unable to engage in unfettered electoral processes unless they possess the ability to partake in the functions of the court, which safeguards their entitlements (Ogerie, 2017). The regulation and preservation of these rights, at the very least, are governed by laws that must be duly observed. The establishment and expression of popular sovereignty, along with the selection of individuals to represent the populace, are safeguarded and upheld through legally binding statutes. The principle of the rule of law is considered a fundamental human right, as it serves as a crucial foundation for the functioning of democratic systems. Nevertheless, the establishment and manifestation of the will of the populace in a democratic society necessitate more than mere legal safeguards for rules and rights. Once authority is bestowed onto individuals through the democratic process, it becomes their responsibility to execute the desires and preferences of the populace. The implementation of this will, or exercise of power, is likewise subject to regulation through legal processes.

The centrality of political rights is paramount to the establishment of a genuine democracy. The core values universally recognised in democratic governance include respect for minority rights, the freedom of individual thoughts, the formation and dissemination of opinions without fear of

reprisal, and legal and political equality in state institutions and processes (Spagnoli, 2013). In order for a democracy to be considered legitimate, it is imperative that it incorporate mechanisms and establishments that acknowledge the significance of these ideals, which are widely seen as globally essential. Furthermore, it is crucial to recognise the intrinsic connection between democracy and human rights. According to Franck (2012), it can be argued that democracy is a virtue that is universally desirable.

The Role of the Judiciary in a Democracy

In a democratic society, the judiciary plays a pivotal role in upholding the rule of law, safeguarding individual rights, and maintaining the balance of power. The judiciary, often referred to as the third branch of government, acts as a crucial check on the executive and legislative branches, ensuring that the principles of democracy are upheld. However, below are the vital roles of the judiciary in a democracy, drawing on both historical and contemporary perspectives.

Interpretation of Laws: One of the primary functions of the judiciary is to interpret laws. In a democracy, laws are enacted by elected representatives in the legislature. However, these laws may not always be clear or may have ambiguous provisions. The judiciary steps in to interpret these laws, ensuring that they are applied consistently and in line with the constitution. Constitution interpretation by the judiciary helps in the shaping of government and its processes in a democratic setting (Adegboruwa, 2021). This role is essential for maintaining the rule of law and preventing arbitrary interpretations by other branches of government.

Protection of Individual Rights: Another critical role of the judiciary in a democracy is the protection of individual rights and liberties. Democracies are built on the foundation of individual freedoms, and it is the judiciary's responsibility to ensure that these rights are not infringed upon by the government or other individuals. In short, the judiciary is inadvertently translated to an agent of human rights enforcement by ensuring that the contents of human rights instruments, applicable in that country, are used as sources of law in the settlement of human rights disputes in particular, and other disputes in general (Agbor, 2015). Judges act as impartial arbiters, adjudicating disputes and cases involving issues such as freedom of speech, religion, and privacy.

Judicial Review: Judicial review is a fundamental power held by the judiciary in a democracy. It allows the courts to review the constitutionality of laws and government actions. This power serves as a crucial check on the legislative and executive branches, preventing them from overstepping their constitutional limits (Jillani, 2018). Through judicial review, the judiciary can strike down laws that are inconsistent with the constitution, thereby ensuring that the government operates within the confines of democratic principles.

Ensuring Accountability: Accountability is a cornerstone of any democratic system. The judiciary plays a role in ensuring accountability by investigating allegations of government misconduct, corruption, and abuse of power (Goodluck, 2020). Courts have the authority to hold public officials accountable for their actions, ensuring that they are answerable to the people they serve. This accountability helps maintain the trust of citizens in their democratic institutions.

Resolving Disputes: In a democracy, disputes are inevitable, whether they involve individuals, businesses, or government entities. The judiciary serves as a forum for the peaceful resolution of these disputes through a fair and impartial legal process. This role contributes to the stability and functioning of a democratic society by providing a legal avenue for addressing conflicts.

Protection of Minority Rights: One of the core principles of democracy is the protection of minority rights. In a system where the majority rules, the judiciary serves as a safeguard against the tyranny of the majority (Sandalow, 2016). Judges are tasked with ensuring that minority groups are not marginalized or discriminated against, even when their views or interests are not aligned with the majority.

Upholding the Constitution: The judiciary is the guardian of the constitution in a democracy. It is responsible for ensuring that all government actions, laws, and policies conform to the constitution's principles and values. This role is essential for preserving the integrity of the democratic system and preventing the erosion of constitutional rights.

The judiciary's roles in a democracy are diverse and interconnected, serving as a bulwark against tyranny, an enforcer of individual rights, a guardian of the constitution, and a check on the powers of

other branches of government. Through its interpretation of laws, protection of individual rights, judicial review, accountability mechanisms, dispute resolution, protection of minority rights, and upholding of the constitution, the judiciary plays a vital role in ensuring that democratic principles thrive and endure. Without a robust and independent judiciary, the very essence of democracy is at risk, making it imperative that we continue to recognize and support the judiciary's pivotal role in democratic governance.

Constitutional Functions of the Judiciary in Nigeria

The judiciary is a vital pillar of any democratic society, tasked with the responsibility of upholding the rule of law and ensuring justice prevails. In Nigeria, a nation with a rich and diverse cultural heritage, a well-defined constitutional framework establishes the judiciary's functions and powers. The following are the constitutional functions of the judiciary in Nigeria, including:

Electoral Dispute Resolution: The judiciary plays a crucial role in Nigeria's electoral process. It has the authority to adjudicate disputes arising from elections, including gubernatorial, legislative, and presidential elections (Okoli, 2018). This function contributes to the credibility and stability of Nigeria's democracy.

Preservation of Separation of Powers: Nigeria's Constitution establishes the principle of the separation of powers among the executive, legislative, and judicial branches of government. The judiciary serves as the guardian of this principle, ensuring that each branch operates within its constitutionally defined limits.

Promotion of Legal Certainty: The judiciary's interpretation and application of laws provide legal certainty, which is essential for economic and social development. Investors and individuals need to have confidence in the legal system for economic growth to occur.

Interpretation of the Constitution: One of the most fundamental functions of the Nigerian judiciary is to interpret the constitution. Article 6(2) of the 1999 Constitution (as amended) affirms the supremacy of the Constitution, and it is the responsibility of the judiciary to ensure that all laws, policies, and actions are in line with it (Anifalaje & Ojo, 2017). This power enables the judiciary to act as a check on the legislative and executive branches.

Protection of Fundamental Rights: The judiciary plays a critical role in safeguarding the fundamental rights of Nigerian citizens. The Constitution, in Chapter IV, guarantees various rights, including the right to life, liberty, and fair hearing. Courts have the authority to hear cases related to violations of these rights and provide remedies to the aggrieved parties (Ogwu, 2019).

Review of Administrative Actions: The judiciary in Nigeria has the power of judicial review, allowing it to review the actions and decisions of the executive and other government agencies to ensure they are lawful. This function is essential in preventing abuse of power and ensuring accountability in the government.

Guardianship of Federalism: Nigeria's federal system of government necessitates a strong judiciary to adjudicate disputes between the federal and state governments. The judiciary ensures the maintenance of a delicate balance between federal and state powers as outlined in the Constitution (Oyewo, 2020).

The Nigerian judiciary is a crucial institution in upholding the rule of law, protecting citizens' rights, and promoting justice in the country. Its constitutional functions provide a framework for ensuring that the principles of democracy are upheld and that Nigeria continues to progress as a nation. However, the challenges it faces, including corruption and inadequate resources, must be addressed to strengthen its capacity to fulfill its constitutional mandate effectively. A robust and independent judiciary is essential for Nigeria's continued growth and development as a democratic nation.

Legal and Institutional Mechanisms Safeguarding Democratic Politics in Nigeria

In Nigeria, a nation with a complex history that has experienced periods of authoritarian rule and political instability, democratic politics are a pillar of government. In order to secure and sustain democratic practices, Nigeria has developed a range of legal and institutional mechanisms. This paper explores these mechanisms, highlighting the importance of their role in safeguarding democratic politics in Nigeria, including:

i. Constitution of the Federal Republic of Nigeria

The Nigerian Constitution, first adopted in 1999, lays the foundation for democratic governance in the country. It establishes the principles of democracy, defines the powers of government institutions, and safeguards fundamental rights and freedoms. Chapter II of the Constitution outlines the Fundamental Objectives and Directive Principles of State Policy, which include principles such as social justice, equality, and the protection of minority rights. Hoffmann & Wallace (2022) added that the constitution also guarantees Nigerians freedom of religion, expression, movement, and assembly and protects them from discrimination based on sex, religion, origin, or political opinions. These principles underpin the democratic ethos of the nation.

ii. Electoral Commission (INEC)

The Independent National Electoral Commission (INEC) is responsible for organizing and overseeing elections in Nigeria. INEC conducts various elections, including presidential, gubernatorial, and legislative elections. It is mandated to ensure that elections are free, fair, and transparent. INEC's commitment to these principles was evident in the 2015 and 2019 general elections, which witnessed significant improvements in the credibility and transparency of the electoral process (Lekorwe, 2016).

iii. The Judiciary

The Nigerian judiciary serves as a vital check on the executive and legislative branches. It interprets the Constitution, resolves disputes, and upholds the rule of law. The Supreme Court of Nigeria, as the highest court in the land, has the ultimate authority to determine legal and constitutional matters, including election disputes. The judiciary's independence is crucial in safeguarding democratic politics, as it ensures that the rights of citizens are protected and that the government operates within the confines of the law (Jillani, 2018).

iv. Political Parties Act

The Political Parties Act regulates the formation, registration, and operation of political parties in Nigeria. It sets out the criteria for party registration, financial transparency requirements, and guidelines for the conduct of primaries and internal party affairs (Jiya, 2014). This legislation helps prevent the proliferation of frivolous political parties and promotes the development of strong, ideologically-driven political organizations.

v. Anti-Corruption Agencies (ACAs)

Nigeria has established several anti-corruption agencies, such as the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC), to combat corruption within the government and society at large. Corruption is a significant threat to democracy, as it undermines the integrity of institutions and erodes public trust. These agencies play a crucial role in investigating and prosecuting corrupt practices, thereby safeguarding democratic values. Khaitan (2021) also added that ACAs are believed to play indispensable roles in safeguarding democracy and are often dubbed the fourth branch or the guarantor institutions. They often possess greater expertise, integrity, and accountability than the deficient judicial and executive institutions embedded in the status quo political system.

vi. Human Rights Commissions

The National Human Rights Commission (NHRC) is tasked with promoting and protecting human rights in Nigeria. It investigates human rights violations, educates the public about their rights, and advocates for legal and policy reforms. Ensuring that citizens' rights are respected is fundamental to upholding democracy, and the NHRC serves as a watchdog in this regard.

vii. Media and Freedom of Information Act

A free and independent media is essential for holding the government accountable and providing citizens with unbiased information. Nigeria's Freedom of Information Act grants citizens access to government records and promotes transparency. Additionally, laws protecting journalists and their rights are crucial for ensuring that the media can operate without fear of censorship or persecution (Oso, 2013).

viii. Civil Society Organizations

Civil society organizations (CSOs) in Nigeria play an active role in advocating for democratic reforms, monitoring government activities, and mobilizing citizens. They serve as a bridge between the government and the people, promoting dialogue and ensuring that the government remains responsive to the needs and aspirations of the citizens.

ix Security Forces Oversight

The Nigerian military and police are vital institutions for maintaining law and order. However, there have been concerns about human rights abuses and excessive use of force by security forces. Mechanisms for civilian oversight, such as the Police Service Commission and the National Human Rights Commission, are essential in addressing these issues and ensuring that security forces operate within the boundaries of the law.

Relationship between Judiciary and Rule of Law in Safeguarding Democracy

The judiciary and the rule of law are fundamentally interconnected. The aforementioned interconnection is seen in certain documents that establish intergovernmental groups. The establishment of a robust legal culture is vital for the effective safeguarding of democracy, as it facilitates the provision of procedural mechanisms for assigning accountability in cases of human rights infringements. Within a robust legal framework, individuals tend to interpret events and circumstances through a lens informed by legal principles, viewing each action and inaction as a possible legal conflict that can be addressed through litigation (Okoye, 2014). The indispensability of the rule of law in the enhancement of respect for and promotion of human rights within democratic societies is widely acknowledged.

Based on the preceding discourse concerning democracy, judiciary, and rule of law, it is possible to assert the following with confidence: firstly, the primary objective of a democratic system is the full realisation of all fundamental human rights and liberties; secondly, the extent of a democracy's effectiveness is largely gauged by its ability to advance and safeguard human rights to a significant degree; and thirdly, the presence of the rule of law is essential for upholding and safeguarding the principles of democracy.

Nevertheless, the establishment and manifestation of the collective desires of the populace in a democratic society necessitate more than just adherence to legal safeguards and fundamental rights. Once authority is bestowed on individuals through the democratic process, it becomes their responsibility to execute the desires and preferences of the electorate. The implementation of this will, or the exercise of authority, is likewise subject to legal regulations. The assumption that power derived from the populace is inherently advantageous does not hold true universally. In order to ensure the responsible exercise of such powers, it becomes imperative to impose constraints based on the principles of the rule of law and human rights, akin to any other kind of authority. The distinction between the state and society is crucial, particularly due to the societal origin of power. Emphasizing this distinction is essential, and it can only be achieved through the establishment and enforcement of legal frameworks (Mbunda, 2014).

Judicial Review and the Promotion of Judiciary and Democracy

The concept of judicial review, as commonly understood in legal terminology, pertains to the authority vested in the courts to adjudicate upon the lawfulness (specifically, constitutionality) of an administrative action or legislation (regardless of its source, whether it the legislature or executive branch), as well as to ascertain its conformity with fundamental principles of fairness and equity. The purpose of this clause is to guarantee that the actions of the different organs are in accordance with the provisions outlined in the constitution. The doctrine of judicial review confers upon the courts the authority to adjudicate instances involving disputes on the exercise and extent of governmental powers. It is possible that an administrative body has acted outside its legal authority or is unwilling to fulfill a prescribed obligation (Agbor, 2015). The power in question is commonly employed by judicial bodies to oversee and supervise the activities of other branches of government, thereby guaranteeing a certain level of compliance with the provisions outlined in the fundamental laws of the nation with the majority of nations, the authority to exercise this power is vested with the highest courts possessing appellate jurisdiction.

The lack of judicial independence and the presence of constitutionalism that fosters the principles of checks and balances, separation of powers, and judicial review are significant constitutional deficiencies in Nigeria. The repercussions of these factors are evident in the lack of progress in Nigeria's democratic system and the persistent cultivation of a societal environment that disregards fundamental human rights. In order to provide a solid foundation for Nigeria's governance,

it is imperative that democracy, the rule of law, and the protection of human rights are prioritised. The analysis of the law necessitates approaches that promote the constitutional goals, ideals, and values of the nation, including but not limited to democracy, the protection of human rights, and the preservation of fundamental freedoms (Ghutto, 2012). The responsibility to interpret and enforce the law includes the authority to oversee the conduct and choices of government officials when they infringe upon the rights and freedoms of individuals or are in conflict with any constitutional provision or contrary to the principles upheld within it. The power of judicial review, derived from the mandate to interpret and enforce the law, is seen in the authority of courts to examine the compatibility of legislation, judgements, or actions of government officials with the legal framework of a nation. Judicial review serves as a democratic process employed to safeguard against unwarranted infringements of an individual's rights. The court assumes the role of evaluating the legality of decisions and actions undertaken by government officials.

The judiciary exercises its authority of judicial review to safeguard and enforce the relevant laws of the nation. Furthermore, it is important to note that this mechanism also serves to scrutinise administrative deficiencies and abuses, as individuals who have been adversely impacted by the actions of public authorities are granted the opportunity to contest these acts through legal means. Within the framework of a constitutional democracy, the judiciary assumes the crucial responsibility of serving as impartial arbiters and ultimate guardians of individual rights. Furthermore, these entities contribute to the enhancement of democratic values by upholding the principle of legal equality and establishing a platform for the scrutiny and contestation of instances of power abuse. Courts are entrusted with the responsibility of interpreting and enforcing laws, enabling them to assess the legitimacy of executive and legislative actions. This ensures that these branches of government not only adhere to their constitutional mandates, but also actively promote the democratic principles and goals outlined in the Constitution (Barber, 2011). The power of judicial review, which is intrinsically embedded in the constitutional authority of judges, grants them the ability to assume a prominent and essential position in the promotion and safeguarding of a democratic ethos. The primary functions of this institution include assessing the legitimacy of decisions and actions undertaken by individuals holding public office, acting as a mediator to resolve various types of conflicts, and most significantly, overseeing and preventing the misuse of governmental authority. The authority of judicial review is not only applicable within the context of Nigeria's democratic society, but also serves as a crucial mechanism for advancing and safeguarding human rights, democracy, and the principles of the rule of law.

Relationship between the Judiciary and Democracy in the Political System of Nigeria

The relationship between the judiciary and democracy is a fundamental aspect of any democratic political system. In Nigeria, a country that has experienced both military rule and democratic governance, this relationship has been a topic of significant debate and scrutiny. The Nigerian judiciary plays a crucial role in upholding the principles of democracy, ensuring the rule of law, and safeguarding citizens' rights. According to Chukwuma (2018), in a democratic system like Nigeria, the judiciary serves as one of the three pillars of government, alongside the executive and legislative branches. Its primary function is to interpret and apply the law, resolve disputes, and protect the rights and freedoms of citizens. The judiciary acts as a check on the powers of the other branches, ensuring that they adhere to the constitution and respect the rule of law. This separation of powers is essential for the functioning of a healthy democracy. However, the independence of the judiciary is crucial for maintaining a vibrant democracy. Judges must be free from political interference and influence to make impartial and fair decisions. In Nigeria, the Constitution guarantees the independence of the judiciary, but this independence has often been threatened by political pressures and corruption. The appointment and removal of judges, as well as their conditions of service, can impact their independence. To strengthen democracy in Nigeria, it is essential to ensure that the judiciary remains independent and immune to political manipulation (Ozohu-Suleiman, 2020).

One of the key functions of the judiciary in a democracy is judicial review. In Nigeria, the judiciary has the authority to review and invalidate laws and actions of the executive and legislative branches if they are found to be unconstitutional. This power is vital for protecting the rights of citizens and ensuring that the government acts within the bounds of the constitution. The judiciary's

ability to check the actions of the government is a cornerstone of democratic governance in Nigeria (Okonkwo, 2019). Nonetheless, elections are a fundamental aspect of democracy, and their integrity is essential for a democratic system to thrive. The Nigerian judiciary plays a crucial role in resolving electoral disputes, which have been a recurring issue in the country's democratic history. The judiciary's impartiality and effectiveness in adjudicating election-related cases are critical for ensuring that the will of the people is upheld and that elections are free and fair. However, the relationship between the judiciary and democracy in Nigeria is a complex and dynamic one. While the judiciary plays a vital role in upholding democratic principles and protecting citizens' rights. A strong and independent judiciary is essential for the consolidation and advancement of democracy in Nigeria, ensuring that the country continues on the path of democratic governance.

Conclusion

It is noteworthy that democracy and human rights have become universally recognized legal entitlements. It is crucial to acknowledge that the fundamental principles and values of human rights and democracy have been explicitly articulated in various international instruments. The judiciary, as per constitutional mandate, should embrace a more expansive and inclusive understanding of the term 'law' to encompass international legal principles. Furthermore, it is imperative for judges to adopt a strong stance by incorporating human rights concepts into their rulings, particularly in a democratic society where constitutionally accepted democratic norms should serve as their guiding framework. Nevertheless, the preservation of a robust democracy heavily relies on the autonomy of the judiciary, as it assumes a pivotal function in the resolution of election conflicts, a persistent concern throughout the nation's democratic trajectory. Therefore, it is imperative that judges maintain independence from political intervention and influence in order to render unbiased and equitable judgements. The application of judicial review extends beyond the confines of Nigeria's democratic society, encompassing a vital instrument for the promotion and protection of human rights, democracy, and the ideals underpinning the rule of law.

Recommendations

1. The paper therefore recommends a redefinition of the countries philosophies and values that will be suitable and be in consonance with the peculiarity of Nigeria environment. There is the need for re-alignments of the divergent interest into a common political values and culture that would be generally accepted by all Nigerians. That is, the people of Nigeria must develop a code of conduct or governance for both private and public office holders at all levels of government. This should be in form of democratic values and ethos that will be in line with the accepted political values and cultures in Nigeria.
2. The establishment of an independent and incorruptible and virile political institution that would be responsible for formulating and implementing and monitoring the re-definition and realignment of Nigeria's divergent political values into a common unit acceptable by all. Government must stop meddling into the affairs and running of these institutions while the umpires must apply global best practices in running the affairs of these institutions. In addition, the right structures and people must be put in place.
3. For democracy to thrive, Nigerian judges should be competent to embrace the concept of judicial activism. This requires moving away from the antiquated and out-dated practice of defining their role technically and narrowly. They should interpret the Constitution and other relevant human rights laws so as to promote justice, rule of law, judiciary and democracy in the country.
4. Government should consider a review of the constitutional provisions on democracy and political participation in order to make adequate provisions not only for political participation, but for mobilization of the people to participate as well as democratization of the political parties.

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