

EXECUTIVE DISOBEDIENCE TO COURT ORDERS AND ANARCHY IN NIGERIA * **

ABSTRACT

Court orders have consistently been disobeyed in Nigeria. Without a doubt, this has led to widespread misuse and violation of human rights as well as an absence of faith in the independence of the judiciary. If this abnormality is not checked and put under control, Nigeria may descend into anarchy. This essay evaluated instances of executive disobedience to court orders, anarchy as a result of the disobedience of court orders, the legal system in Nigeria that empowers courts and governs disobedience to court orders, and the disobedience of court orders itself. The doctrinal approach of research was adopted in this work. It was discovered that the absence of independence of the judiciary, immunity, absence of strong enforcement mechanisms, corruption, and partisan politics among others are factors impeding the enforcement of court orders in Nigeria. To curb these challenges, there is a need for total independence of the judiciary, a strong enforcement mechanism, stiffer punishments, amendment of immunity clause, and activism by the bar, bench, and human rights organisations.

Keywords: Court Orders, Executive Arm, Anarchy, Contempt of Court, Rule of Law

1.0 INTRODUCTION

In Nigeria, disobedience of court orders is a problem that has developed into a repeating phenomenon and a culture. Records of incidents of disregarding court orders are regularly found. If this issue is not resolved, Nigeria might quickly devolve into a lawless society where the application of the law and protection of human rights is only a mirage. The issue of disobedience of court orders in Nigeria has engaged the mental energies of eminent authors. Therefore, it is disappointing to learn when executives disobey the law and ignore court rulings.¹ All civil Societies are built on the principles

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of law and order; without order, there can be no justice, no peace, and no community at all. To create and uphold order, we require the rule of law. The use of governmental authority should therefore be subject to legal restrictions. The Federal Republic of Nigeria asserts its supremacy and dominance over all people in Section 1 of its 1999 Constitution.

Executives and public servants in Nigeria behave as if they are above the law, which is a concern. Where the Executive branch of government consistently and repeatedly disobeys valid court rulings, there can be no rule of law and no regard for human rights. Without efficient enforcement—which is dependent on a strong judiciary—no amount of substantive law reform can bring the rule of law to a nation. Economic growth is correlated with judicial independence, as well as the strength and effectiveness of judicial systems.²

2.0 CONCEPTUAL FRAMEWORK

2.1 Disobedience to Court Orders

A general definition of disobedience of a court order is an act or behaviour that violates the court's ruling on a particular issue. Various definitions of a court order exist. A court order, as defined by Black's Law Dictionary, is a written instruction or directive given by a court or judge. It can also be the court's mandate or decision regarding a subsidiary or collateral matter that arises in a case, not ruling on the merits but deciding a preliminary issue or prescribing a course of action.³

It could imply a directive or a command. It could be a court order preventing someone from doing something or requiring them to do something. Disobedience, on the other hand, has been defined as a failure and a reluctance to obey.⁴ The aforementioned information should be sufficient to conclude that disobedience of a court order is the failure, refusal, or neglect to comply with a court's directions or orders, even when doing so may imperil the rule of law or may violate a citizen's fundamental human rights. Court orders can be issued in a variety of ways and forms, such as a warrant for a suspect's arrest, an interlocutory order to settle a dispute while a case is still in

¹ Vite Solution, 'Executive Disobedience to the Law and its Implication' (*Academia*, 19th April 2023) <https://www.academia.edu/37148505/_Nigeria_Executive_Disobedience_to_Law_and_Implications.pdf> accessed on 16th May 2023.

² Adebayo Akinlade, 'Disobedience to Judgments and Orders of the Lower Court: Implications for the Rule of Law in Nigeria' (All Nigerian Judges Conference for Lower Court Judges, National Judicial Institute, Abuja, 14th November 2022) 2.

³ Bryan Garner (ed), *Black's Law Dictionary* (8th edn, West Publishing Co 2004) 114.

⁴ A S Hornby (ed), *Oxford Advanced Learners Dictionary* (8th edn, Oxford University Press 2010) 420.

progress, a final order to resolve the rights and obligations of the parties in a lawsuit, etc.⁵ Contempt of court, on the other hand, is another term for disobeying a court order.

2.2 Contempt of Court

In *R v Gray*,⁶ the court provided a clear and commonly cited definition of contempt, defining it as any action taken or document published with the intent to discredit the Court or one of its judges. Additionally, it is a contempt of court offense to take any action or publish writing with the intent to impede or hinder the proper administration of justice or the legal process of the court.

Also, the term "contempt of court" is now used to refer to any act or behaviour that is intended to undermine the legitimacy of the judiciary and the administration of justice.⁷ In addition, it is an action that is taken to degrade the authority or dignity of the court, either in front of the court or outside of the court, or to embarrass, hamper, or obstruct the court in the administration of justice. It is however unfortunate that the offense continues to go by a term that conveys to the modern imagination that its core is a purported insult to the court's dignity. Any affront to the peaceful administration of justice is disdainful.⁸

2.3 Rule of Law

Being a constitutional idea, the rule of law continues to be the cornerstone of governance in any given republic. Therefore, everything must be carried out under the law. This suggests that everyone, including the government, must always provide legal justification for their activities. Additionally, Coke eloquently argued that government should operate within the bounds of generally accepted principles and standards that limit the use of discretion, describing the former as a "golden and straight network of law as opposed to the uncertain and crooked cord of discretion"⁹ Because if discretionary powers are permitted, individuals in government will abuse them to the detriment of the less privileged segments of society, government business should be conducted without authoritarian tendencies.

⁵ Emeka Nnamani, 'Rethinking the Disobedience of Court Orders in Nigeria (*The Nigeria Lawyer*, 19th April 2023) <<https://thenigerialawyer.com/rethinking-the-disobedience-of-court-orders-in-nigeria/>> accessed on 27th May 2023.

⁶ [1900] 2 QB 36, at 40.

⁷ Onyeisi Igbokwe, 'Knitting Contempt of Law to the Administration of Justice in Nigeria: No Longer at Ease' (University of Nigeria, Enugu, 2017) 2.

⁸ *Attorney General v Times Newspaper Ltd* [1974] AC 273, 322.

⁹ *Miscellaneous Offences Tribunals v Okoroafor* (2001) 10 NWLR (Pt 745) 310.

2.4 Anarchy

Anarchy is a belief system that rejects governmental authority in favour of self-government or community consensus. Its name, which comes from a Greek term meaning "having no ruler," has come to be synonymous with disorder and the dissolution of civil order.¹⁰ While social anarchists think political power and resources should be distributed equitably among all members of a community, individualist anarchists value individual freedom and reject the legitimacy of government. Another idiomatic term for society's disintegration and collapse is anarchy.¹¹ The frequent criticism of anarchy is that it leads to lawlessness and chaos, but proponents of the anarchist theory contend that society can survive and even flourish in the absence of traditional hierarchies.

3.0 LEGAL REGIME EMPOWERING COURTS AND REGULATING DISOBEDIENCE TO COURT ORDERS

Section 5 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) outlines the authority of the Executive Arm of government. Section 6(1) of the CFRN 1999 outlines in detail the judiciary's authority to make decisions. According to the Section, the court established for the Federation will have the authority to exercise the judicial powers on behalf of the Federation. The CFRN 1999's Section 6(6) likewise lists all types of disputes among the things to which the judicial power relates.

Additionally, it states that the judicial authority as granted by the aforementioned section's provision:

(a) Shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law.

(b) Shall extend, to all matters between persons, or between government or authority and to any person in Nigeria, and all actions and proceedings relating thereto, for the determination of any question as to the civil right and obligation of that person.

There is no question that all parties must abide by judicial orders and judgments. According to CFRN 1999 Section 287,

¹⁰ Will Kenton, 'Anarchy: Definition, Types, Schools of Thought' (*Investopedia*, 27th August 2021) <<https://www.investopedia.com/terms/a/anarchy.asp>> accessed on 16th May 2023.

¹¹ *Ibid.*

(1) the decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons, and by Courts with subordinate jurisdiction to that of the Supreme Court.

(2) The decisions of the Court of Appeal shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Court of Appeal.

(3) The decisions of the Federal High Court, a High Court, and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court, a High Court, and those other courts, respectively.

According to Section 1 (1) of the CFRN 1999, "this constitution is supreme, and its provisions shall have a binding effect on the authorities and persons throughout the Federal Republic of Nigeria." This ensures that the law applies to everyone, regardless of status or position. The President or Governor is obligated to take all reasonable steps within his authority as specified by law to ensure that the laws are obeyed in his capacity as one tasked with the duty of administering the law (the Executive Arm).¹² Recent occurrences, however, demonstrate that the executives have failed to follow court instructions. The arrest and ongoing incarceration of some people in defiance of the court's honourable ruling is an example of egregious disobedience to the court's order.

In *FCDA v Koripamo-Agary*,¹³ Mary Ukaego Peter-Odili, JCA stated that:

The Court frowns at disobedience of its orders; particularly by the executive branch of government and has used rather harsh language such as 'executive lawlessness', in describing such acts of disobedience. On the application of an aggrieved party, the Court has in appropriate cases, not hesitated to exercise its coercive power to set aside such acts done in disobedience of its order and restore the parties to the position they were before such disobedience. The rationale for this course of action by the Court is to ensure the enthronement of the rule of law rather than acquiesce in resorting to self-help by a party. The Court also has the power of sequestration and committal against persons disobeying its orders. It is an

¹² Emeka Nnamani, 'Rethinking the Disobedience of Court Orders in Nigeria (*The Nigeria Lawyer*, 19th April 2023) <<https://thenigerialawyer.com/rethinking-the-disobedience-of-court-orders-in-nigeria/>> accessed on 27th May 2023.

¹³ (2010) LPELR-4148 (CA).

overgeneralization and therefore wrong to say that an act done in disobedience of a Court order is an illegality.

In *All Progressive Congress & 2 Ors v Hon Danladi Idris Karfi & 2 Ors*,¹⁴ laws are intended to be followed, according to the Supreme Court. All individuals and authorities, including political parties, are required to abide by the law. In other words, "the law does not regard persons..." The Supreme Court in *Luois B Ezekiel Hart v Chief George I Ezekiel Hart*,¹⁵ highlighted that disobeying a ruling or order is considered disrespect and that allowing this to happen would lead to anarchy. If court orders are capable of being disregarded, the entire judicial system is denigrated. There will only be one option left for each citizen if the remedies that the Courts give to right wrongs can be disregarded: to enforce the law himself. Our society will swiftly disintegrate if people lose respect for the courts.

4.0 INSTANCES OF DISOBEDIENCE TO COURT ORDERS BY THE EXECUTIVE ARM OF GOVERNMENT IN NIGERIA

The courts are held in high regard as an impartial institution. This optimism is a result of the public's faith in the courts' sanctity, integrity, and respect for the law. The flagrant and persistent defiance of court orders by the Executive branch of government is one of the main methods by which the hopes placed in the judiciary may be eroded. The growing brazen contempt for legitimate court orders in Nigeria portends a serious threat to our democracy. For there to be effective governance, the executive and legislative branches of government must cooperate with the judiciary. By violating a court order, any arm that fails to provide the anticipated support, on the other hand, will only bring instability to the fore in the governance arena. Let us examine some recent cases where court orders were violated by the Executive arm of government.

4.1 Abdulrasheed Bawa: EFCC Chairman

The Economic and Financial Crimes Commission (EFCC) Chairman, Abdulrasheed Bawa, was sentenced to prison on February 6, 2023, by the Kogi State High Court in Lokoja for defying its order. Additionally, it instructed the Inspector General of Police to detain Bawa in Abuja's Kuje prison for the subsequent 14 days after his detention. Bawa must remain in custody "until he purges himself of the contempt," that is, until he absolves himself of the offense for which he was imprisoned, according to the trial judge.¹⁶

¹⁴ [2018] 6 NWLR (Pt 1616) 479, 493 SC.

¹⁵ [1990] NWLR (pt 126) 276.

¹⁶ Sunday Ehigiator, 'Incessant Flouting of Court Orders and Its Implication for Democracy' *This Day Live* (Lagos, 21st February 2023) <<https://www.thisdaylive.com/index.php/2023/02>>

Based on an application submitted by Ali Bello, who charged Bawa with breaking a court order by proceeding with his arraignment on December 15, 2022, in defiance of a previous court order made on December 12, 2022, the trial judge granted the committal order. The court had ruled on December 12, 2022, ruling that Mr. Bello's arrest and detention by the EFCC and its chair on November 29, 2022, in defiance of an earlier, still-standing court order, without a warrant of arrest or knowing the offense for which he was arrested, is illegal and unconstitutional.¹⁷

The court further determined that the applicant's right to personal liberty and respect for human dignity as guaranteed by Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Articles 5 and 6 of the African Charter on Human and Peoples' Rights was violated by his arrest and detention. The court also mandated that the respondents apologize to the petitioner in a major publication and granted him ₦10 million in damages. However, the EFCC and its leader disobeyed all these orders, which caused the EFCC boss to be ordered to be arrested.¹⁸

4.2 Godwin Emefiele and Illegal Possession of Firearm and Ammunition

In June 2023, the Federal Government brought two counts of illegal possession of a firearm and ammunition before the Federal High Court in Lagos State against suspended Central Bank of Nigeria (CBN) Governor, Godwin Emefiele. He entered a not-guilty plea to the two offenses. The troubled erstwhile CBN governor was to be transferred from State Security Services (SSS) detention and held in a jail facility until the completion of the bail requirements, according to the trial judge's decision. Following a scuffle with members of the Nigerian Correctional Service (NCS) on the court premises, the SSS again detained the suspended Central Bank of Nigeria (CBN) governor, Godwin Emefiele, in violation of the court's order.¹⁹

Counsel for the CBN governor who had been suspended claimed that the SSS intended to re-arrest the defendant. This was announced on the grounds of the Federal High Court in Lagos by the principal defence counsel for the defendant. The counsel

[/21/incessant-flouting-of-court-orders-and-its-implication-for-democracy/>](#) accessed on 27th May 2023.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Oluyemi Ogunseyin, 'DSS Re-arrests Emefiele after Fight with Prison Officials,' *The Guardian* (Lagos, 25th July 2023) <<https://guardian.ng/news/dss-re-arrests-emefiele-after-fight-with-prison-officials/>> accessed on 30th July 2023.

expressed concern about the SSS's purported intent to detain the troubled former CBN governor again despite the court's decision to allow him bail.²⁰

However, a conflict erupted between SSS agents and prison guards about who should keep Emefiele in their care. A fight broke out when the secret police confronted the jail guards who attempted to arrest Emefiele. The SSS reportedly whisked Emefiele out of the courthouse and into their waiting vehicle while the prison officials left the court premises in their vehicle.²¹

4.3 Attorney General of Lagos State and Lagos State Task Force Unit

Admiral Festus Porbeni (rtd), Admiralty Fleet Limited (BICS Garden), and the National Inland Waterways Authority filed a suit against the Attorney General of Lagos State and the Lagos State Special Task Force Unit. The suit was filed by Admiralty Fleet Limited (BICS Garden), and the Attorney General of Lagos State was named as the defendant.²²

On October 18, 2021, the court issued an order preventing the Lagos State Special Task Force Unit and the Attorney-General of Lagos State (the first and third defendants) from allocating any portion of the property at B20, Wole Olateju Crescent, off Admiralty Way, Lekki Phase 1 in the Eti-Osa Local Government Area until the substantive suit was heard.²³ However, the Lagos State Government appealed the ruling and allegedly sent back police officers and members of the Lagos State Task Force to the scene in violation of the injunction. On October 20, 2021, at around 4 am, they allegedly took a bulldozer to the scene and, while it was still dark, allegedly destroyed buildings there while being protected by police officers from the Lagos State Task Force.

Astonished by the actions of the first and third defendants, the plaintiffs filed a contempt lawsuit against the Lagos State Attorney General. Adebayo Haroun, the attorney for the first and third defendants, informed the court during the suit's resumed hearing that the Lagos State Attorney-General had sent a petition to the Chief Judge of the Federal High Court saying that they lacked faith in the judge. However, the attorneys for the claimants, Messrs. Adetunji Oyeyipo, SAN, Abiodun Olatunji, SAN,

²⁰ Glory Okon, 'DSS Men, Prisons Officials in Free-for-all Over Emefiele,' *The Vanguard* (Lagos, 26th July 2023) <<https://www.vanguardngr.com/2023/07/dss-men-prisons-officials-in-free-for-all-over-emefiele/>> accessed on 30th July 2023.

²¹ Ibid.

²² Wale Igbintade, 'Disobeying Court Orders Recipe for Anarchy, Judge Warns' *This Day Live* (Lagos, 8th November 2021) <<https://www.thisdaylive.com/index.php/2021/11/08/disobeying-court-orders-recipe-for-anarchy-judge-warns/>> accessed on 27th May 2023.

²³ Ibid.

and Adejare Kembi, counsel for NIWA (2nd defendants), informed the court that they were shocked by the turn of events and expressed their displeasure that the Attorney-General did not deem it appropriate to serve the petition on them.²⁴

The trial judge then asked for a copy of the petition because he had not received one either. After reading the petition, the judge stated that he intended to wait for the administrative decision on the case, but he maintained that his order from October 18, 2021, must be strictly followed until it is overturned, adding that the integrity of the judiciary must be preserved in the interim.²⁵ The Judge further gave LASG a seven-day deadline to comply with the order and leave the land, failing which the court might be forced to issue another order expelling anyone from the disputed property.

The first and third defendants disobeyed the court's order, and the judge condemned it, warning that such behaviour undermines trust in the legal system and that failing to rein in such behaviour may lead to lawlessness. The court found that LASG had adequate time to comply with the court order and that they had been properly served with notice of the contempt proceedings.²⁶

4.4 Refusal to Release Ibraheem El-Zakzaky

The way the executive arm of the government treated Ibraheem El-Zakzaky, the head of the Shiite organization IMN, maybe the most ludicrous human rights violation ever. For more than 17 months, Mr. El-Zakzaky has been held without being put on trial.²⁷ The Federal High Court Abuja Division ordered his release on December 2, 2016, and the judge chastised the Nigerian government for violating his rights.²⁸

After a fight broke out between members of his IMN and Nigerian Army soldiers on December 14, 2015, Mr. El-Zakzaky was taken into custody by the military. During the conflict, at least 347 members of the gang were slain. The murderers are not being held accountable by the law.²⁹ The sitting judge, Gabriel Kolawole, delivered the court

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Evelyn Okakwu, 'How Buhari Administration Serially Disobeys Court Orders' (*Premium Times*, 11th June 2017) <<https://www.premiumtimesng.com/news/headlines/233665-special-report-how-buhari-administration-serially-disobeys-court-orders.html?tztc=1>> accessed on 20th May 2023.

²⁸ Ibid.

²⁹ Theophilus Adedokun, 'Major Court Orders Buhari Administration Disobeyed in His Eight Years' (*International Centre for Investigative Reporting*, 19th May 2023) <<https://www.icirnigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/>> accessed on 20th May 2023.

decision requesting the release of Mr. El-Zakzaky and his wife. He also requested that a fine of ₦50 million be paid to the inmates and that housing be made available for them and their families.

Long after the court's 45-day deadline passed, the Nigerian government failed to comply with the court's ruling to free Mr. El-Zakzaky and his wife, despite the court's warnings that it would face additional consequences if it did not. The relationship between the Shiite community and the Nigerian government was characterized by Mr. Kolawole as "delicate and slippery" in that ruling, and he emphasized that the Nigerian government must not demonize the IMN.³⁰

Ten days after the deadline for Mr. El-Zakzaky's release had passed, the federal government, not wanting to comply with the court judgment from the 2nd of December 2016, appealed the decision. Members of the Shiite group conducted several rallies to seek the release of their leader and his wife.³¹

4.5 Refusal to Release Sambo Dasuki

Sambo Dasuki, a former National Security Adviser (NSA), and retired military officer, was detained by State Security Service (SSS) agents in December 2015. As National Security Adviser under the administration of former President Goodluck Jonathan, Dasuki was detained for an alleged diversion of \$ 2.1 billion in armament funding.³² Additionally, the former NSA director is accused of approving fictitious contracts to purchase 12 helicopters, four fighter jets, and ammunition for Nigeria's military operation against the Boko Haram insurgency.

The Economic Community of West African States Court of Justice ordered Dasuki's release from custody in October 2016. In July 2018, a Federal High Court in Abuja released Dasuki from the SSS on bail. The International Centre for Investigative Reporting noted that despite court orders, SSS rejected Dasuki's release five times on various grounds.³³

³⁰ Ibid.

³¹ Daniel Bernard, 'Nigerian Government's Culture of Impunity Towards Court Orders' (*Hum Angle*, 4th September 2021) <<https://humanglemedia.com/nigerian-governments-culture-of-impunity-towards-court-orders/>> accessed on 20th May 2023.

³² Theophilus Adedokun, 'Major Court Orders Buhari Administration Disobeyed in His Eight Years' (*International Centre for Investigative Reporting*, 19th May 2023) <<https://www.icirnigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/>> accessed on 20th May 2023.

³³ Ibid.

However, in July 2019, an appellate court fined the State Security Service (SSS) ₦5 million for holding a citizen in violation of the constitution.³⁴ After Dasuki was released from custody in December 2019, it appeared that the fight for his release had reached its conclusion.

4.6 Refusal to Release Nnamdi Kanu

Nnamdi Kanu, the leader of the Indigenous People of Biafra (IPOB), was first detained in October 2015. Kanu was charged with subversive behaviour, including inciting violence against Nigeria and its institutions through broadcasts on television, radio, and the Internet. Later, on January 20, 2016, he was charged and put in custody in the Kuje prison.³⁵

Kanu was denied access to his family and legal counsel after the Federal Government defied an order from the Federal High Court in Abuja on his bail. The SSS was questioned about this neglect by two justices from the Federal High Court in Abuja, Binta Nyako and Adeniyi Ademola, but nothing changed. A different judge, Benson Anya of the Abia State High Court, ruled that Kanu should get ₦1 billion from the federal government as compensation for the Nigerian Army's unauthorized entry into his home in 2017.³⁶

4.7 Limit on Consolidated Debt of Federal, State, and Local Government

A Federal High Court judge, G. O. Kolawole, issued a judgment directing the President of the Federal Republic of Nigeria to set ceilings for the total debt of the federal, state, and local governments on February 20, 2018. The verdict complied with the Fiscal Responsibility Act's Section 42(1). Within 90 days of the ruling, he specifically directed the Federal Government to set the debt ceilings, which needed to be agreed by both the Senate and the House of Representatives. The Centre for Social Justice Limited (CSJ) brought the lawsuit. The declaration, however, was neither heeded nor obeyed.³⁷

³⁴ Oluwakemi Abimbola, 'Six Times Buhari Has Disobeyed Court Orders' *Punch Newspaper* (Lagos, 29th September 2019) <<https://punchng.com/six-times-buhari-has-disobeyed-court-orders/>> accessed on 20th May 2023.

³⁵ Theophilus Adedokun, 'Major Court Orders Buhari Administration Disobeyed in His Eight Years' (*International Centre for Investigative Reporting*, 19th May 2023) <<https://www.icirnigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/>> accessed on 20th May 2023.

³⁶ *Ibid.*

³⁷ Oluwakemi Abimbola, 'Six Times Buhari Has Disobeyed Court Orders' *Punch Newspaper* (Lagos, 29th September 2019) <<https://punchng.com/six-times-buhari-has-disobeyed-court-orders/>> accessed on 20th May 2023.

The President of the Federal Republic of Nigeria, the Senate of the Federal Republic of Nigeria, the House of Representatives of the Federal Republic of Nigeria, Kemi Adeosun, a former Minister of Finance, and Abubakar Malami, the then Minister of Justice, were the five defendants in the case.³⁸

4.8 Peter Odili and Seizure of International Passport

Peter Odili, a former governor of Rivers State, had his international passport seized by the Nigerian Immigration Service (NIS). Odili's passport was confiscated upon his entry into the country in June 2021 at the Nnamdi Azikiwe International Airport in Abuja. Odili was the governor of Rivers State from 1999 until 2007.³⁹

According to the NIS, the former governor was placed on a watchlist by the Economic and Financial Crimes Commission (EFCC), which then requested that his passport be seized. However, Inyang Ekwo of the Federal High Court in Abuja ruled that the confiscation of the passports was illegal. The judge commanded the NIS to give him his passport back. However, the NIS disobeyed the ruling 38 days after the initial direction, which forced the court to issue another directive. But in December 2021, Peter Odili received his passport at last.⁴⁰

5.0 ANARCHY AS AN IMPLICATION OF DISOBEDIENCE OF COURT ORDERS

Respect for court orders is essential for maintaining Nigeria's stability, peace, and good order. The unattractive alternative is a terrible resurgence of anarchy or the triumph of raw force—a return to our prehistoric way of settling disputes with bows and arrows, matchlocks, firearms, or even more modern weapons of war. Therefore, disobeying a court order should be viewed as a deliberate act of subversion of peace, law, and order in Nigerian society rather than as an offense against the judge who issued it.⁴¹ Every person who believes in the peace and stability of the Nigerian State owes it to the country to obey every order of the court.

Various legal experts have provided explanations of the results of executive disobedience of court orders. In *Ekeocha v. Civil Revenue Commission of Imo State &*

³⁸ Theophilus Adedokun, 'Major Court Orders Buhari Administration Disobeyed in His Eight Years' (*International Centre for Investigative Reporting*, 19th May 2023) <<https://www.icirnigeria.org/major-court-orders-buhari-administration-disobeyed-in-his-eight-years/>> accessed on 20th May 2023.

³⁹ *Ibid* at 4.

⁴⁰ *Ibid*.

⁴¹ Onyeisi Igbokwe, 'Knitting Contempt of Law to the Administration of Justice in Nigeria: No Longer at Ease' (University of Nigeria, Enugu, 2017) 7.

Anor,⁴² the distinguished Oputa J (as he was then known) stated that "it is in the general interest of the country that the law be supreme." In the words of Saulawa, JCA in *Alhaji Garba Mohammed Gadi v. Babayo A. Male & Ors*:⁴³

The judiciary must always strive to weather the storm, so to say, and be seen to have risen to the daunting, albeit not insurmountable, challenges before it; otherwise, it would one day wake up from the slumber thereof only to realise that it's [sic] lost its prestige, formidable authority, and legitimacy. And I dare reiterate, that the alternative to a virile, courageous, fearless, incorruptible, and visionary judiciary is anarchy i.e. a lawless society or nation where private self-help reigns supreme. It's a notorious fact that history has been blighted by the misdeeds of many satanically disposed of men whose cruelty, traumatised and dehumanised the human race, and undoubtedly gave it cause to once more examine its nature much more closely.

In *Pheko and Others v. Ekurhuleni Metropolitan Municipality*,⁴⁴ the court stated thus:

The rule of law, a foundational value of the Constitution, requires that the dignity and authority of the courts be upheld. This is crucial, as the capacity of the courts to carry out their functions depends upon it. As the Constitution commands, orders and decisions issued by a court bind all persons to whom and organs of state to which they apply. Disobedience to court would render the judicial authority a mere mockery... the effectiveness of court orders or decisions is substantially determined by the assurance that they will be enforced.

In *Ibrahim v Emein*,⁴⁵ the court stated thus:

I am of the firm view that for a nation such as ours, to have stability and respect for democracy, obviously rule of law must be allowed to follow its normal course unencumbered. If for any reason, the executive arm of the government refuses to comply with court orders, I am afraid that arm is promoting anarchy and executive indiscipline capable of wrecking the organic framework of the society. The Corporate existence of Nigeria, it must be admitted postulates the principle of cooperation between the three arms of government

⁴² [1981] 1 NCLR 154 165.

⁴³ [2010] 7 NWLR (Pt. 1193) 225 at 286.

⁴⁴ [2015] ZACC 10.

⁴⁵ [1996] 2 NWLR (Pt 430) 322.

(Executive, Legislature, and Judiciary), where these work together in the same framework, then the rule of law shall prevail in that society. But where each selects to work in isolation and or in utter disdain of the other, then havoc wrecks the society.

Disobedience of court orders has profound effects on our nation's political and corporate structure. The independence of the judiciary, adherence to the law, and the absence of arbitrary power are said to be prerequisites for a country's progress and development. There can be no development or progress in areas where these are lacking.⁴⁶

In addition to the effects stated above, Nigeria's persistent defiance of court orders harms its standing among other nations. It can also put off potential investors from making investments in the nation because nobody wants to have their assets in a place where a court order is not followed. The respect and regard that the worldwide community has for the nation may also be negatively impacted by this.⁴⁷ Nigeria should take inspiration from its neighbours Ghana, the United States, and India.⁴⁸ Due to their compliance with court decisions, these nations have advanced in development much more quickly than we have. This should thus serve as a wake-up call to the Nigerian government, as disobeying court rulings does not benefit us in any manner; rather, it causes us to lose in a variety of ways.

Finally, the Executive Arm's flagrant disobedience of court decisions exposes its dishonesty in its claim to be institutionalizing democracy and makes it a laughingstock in front of the public and the world community. The same law that established the Executive Arm will eventually dismantle it if it and its agencies continue to violate its provisions and directives, allowing the system's potential for anarchy and worthlessness to be urgently avoided.⁴⁹

⁴⁶ Emeka Nnamani, 'Rethinking the Disobedience of Court Orders in Nigeria (*The Nigeria Lawyer*, 19th April 2023) <<https://thenigerialawyer.com/rethinking-the-disobedience-of-court-orders-in-nigeria/>> accessed on 27th May 2023.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ Sunday Ehigiator, 'Incessant Flouting of Court Orders and Its Implication for Democracy' *This Day Live* (Lagos, 21st February 2023) <<https://www.thisdaylive.com/index.php/2023/02/21/incessant-flouting-of-court-orders-and-its-implication-for-democracy/>> accessed on 27th May 2023.

6.0 CHALLENGES WITH THE ENFORCEMENT OF COURT ORDERS IN NIGERIA

The following reasons are responsible for the Executive's increased recent disobedience of court orders in Nigeria:

6.1 Absence of Judicial Independence

In Nigeria, one of the main reasons people disobey court rulings is the judiciary's lack of independence. The ability of the judiciary to make decisions and impose consequences without undue influence from other parties, particularly the executive and legislative branches of government, is known as judicial independence.⁵⁰ Thus, the main reason for the rising disobedience of court orders has been the lack of independence of the judiciary in terms of recruitment, compensation, discipline, and firing.

6.2 Absence of Strong Enforcement System

The establishment of a functional judiciary requires the use of law enforcement agencies. Law enforcement organizations, such as the police, must try for a judgment to be carried out. To enforce a judgment, armed police officers must go with the court representatives to the judgment debtor, or the party being sued. Due to the lengthy processes required to get the services of the policeman, these officers are not forthcoming.⁵¹ This is because the police system in Nigeria is under the control of the executive branch of government, making it difficult for judges to deploy police officers to carry out their orders against executive officers.

Any court order, no matter how legitimate it may seem, will frequently be ignored if it is not properly enforced. The value of the judicial system is dishonourably diminished when court orders are consistently not followed through with. The Constitution's Section 6 on the judicial powers of the courts includes the power of every court to execute its rulings and decrees, and Section 287 of the same Constitution reinforces this right.⁵²

This provision fails to identify the branch of the government responsible for upholding court rulings. To make provisions for the appointment and duties of sheriffs, the enforcement of court orders and judgments, and the service and execution of the civil process of the Courts throughout Nigeria, the Sheriffs and Civil Process Act states that

⁵⁰ Larry Berman and Bruce Allen Murphy, *Approaching Democracy* (Pearson 2012) 188.

⁵¹ Johnny Okongwu, Samuel Ugbo, & Ezinwanne Nwaobi, 'The Legal Framework for Judicial Review in Nigeria' [2022] 6(2) *African Journal of Law and Human Rights* 17, 23.

⁵² Sections 6 & 87 of the Constitution of the Federal Republic of Nigeria 1999.

it was enacted as an Act of the National Assembly. The implication is that Sheriffs and Bailiffs are responsible for carrying out court orders by Section 287 of the Constitution with the assistance of the police. However, while the Act is a federal statute and is simple to apply to federal courts in Nigeria, a little issue may arise over the enforcement of processes and orders in States.⁵³

The Court should also refrain from issuing invalid orders. *Lex non cogit ad impossibilia*, the legal maxim, states that the law does not compel people to achieve impossibly lofty goals. In other words, the court would not permit itself to issue a directive that is not enforceable. It is a well-known legal principle that a court of law will not issue a directive that cannot be carried out; as a result, issuing directives that are known to be unenforceable exposes the judiciary to ridicule and gives the parties involved the opportunity to openly disobey the court's orders.⁵⁴

6.3 Corruption

One of the main reasons people in Nigeria disobey court rulings is the ongoing rise in corruption in the national polity. When public officials utilize their positions for personal benefit, it constitutes a variety of antisocial behaviours, including bribery, embezzlement, and theft of all sizes.⁵⁵ Because some judges are corrupt, the government is free to disregard court orders.

6.4 Absence of Judicial Integrity

When there is a legitimate foundation for prejudice, as shown by proper investigation, there is a lack of judicial integrity in the decision-making process. The most suitable course of action would be to allow a request that the judge be declared incompetent due to a conflict of interest, bribery, or a lack of technical ability and aptitude. If this is not done, the public's faith in the court as the bulwark of democracy and the rule of law will decline.⁵⁶ Without a doubt, the court would lose its majesty, and there would be a general lack of faith in the integrity, objectivity, and openness of the legal system.⁵⁷

⁵³ Onyeisi Igbokwe, 'Knitting Contempt of Law to the Administration of Justice in Nigeria: No Longer at Ease' (University of Nigeria, Enugu, 2017) 6.

⁵⁴ *University of Los v. Dr MC Ikegwuoha* [2013] 9 NWLR (Pt 1360) 478

⁵⁵ Naomi Chazan, *Politics and Society in Contemporary Africa* (Macmillan Publishers Ltd 1999) 187.

⁵⁶ *Trans Bridge Co. Ltd. v. Survey Int. Ltd* (1986) 4 NWLR (Pt.37)576 at 596-597.

⁵⁷ John Arewa 'Judicial Integrity in Nigeria: Challenges and Agenda for Action' (*Nials Nigeria*, 17th May 2015) <<http://www.nials-nigeria.org/journals/Arewa-Judicial%20Integrity.pdf>> accessed on 23rd May 2023.

6.5 Partisan Politics

One of the factors contributing to the rise in disregard for court orders in Nigeria has been the political or party ties of the Executive, Legislature, and Judiciary. Members of the executive, legislative, and judicial branches frequently share a party affiliation. Over time, this encourages partiality and favouritism.⁵⁸ If the punishment for disobedience was, in the opinion of the majority, insignificant in contrast to the unfavourable consequences of compliance, then most people would not consider one to be under any obligation to obey the command. In the end, deciding whether to obey or violate a court order involves balancing the potential repercussions and their likelihood.⁵⁹

6.6 Threats to Judicial Officers

The judiciary is an independent institution that belongs to the government. Using its equipment and agencies, the executive branch of government has on multiple instances arrested and prosecuted various judicial personnel to frighten them. No one is exempt from the law or prosecution, the administration claims. But how frequently have officials in the executive branch of the government been detained or charged while in office? The President, Vice-President, Governor, and Deputy Governor are shielded from prosecution by the immunity clause.⁶⁰ Therefore, the researchers reject the detention and intimidation of court officials. Anything less than the established processes for disciplining a court officer is cruel and unacceptable.

6.7 Executive Immunity from Prosecution

One of the reasons why certain members of the Executive Arm of government disregard court rulings in Nigeria is the immunity they have. The concept of immunity has a long history, and its roots are in English common law. Some officeholders are shielded from liability that would have otherwise been imposed. It prevents or delays the advancement of a legal claim for wrongdoing against the immune.⁶¹ The immunity that some of these officeholders enjoy may be to blame for the recent rise in non-compliance.

⁵⁸ UB Ikechukwu, 'Effecting Checks and Balances of Powers in the Local Government System in Nigeria' [2015] (9) (5) *Journal of Policy and Development Studies* 11.

⁵⁹ Manuel Leal, 'Why there is Disobedience of Court Orders: Contempt of Court and Neuroeconomics.' [2008] (260) *Queensland Law Reporters* 1067.

⁶⁰ Johnny Okongwu, Samuel Ugbo, and Ezinwanne Nwaobi, 'The Legal Framework for Judicial Review in Nigeria' [2022] 6(2) *African Journal of Law and Human Rights* 17.

⁶¹ Omo Arishe, 'Reconsidering Executive Immunity under the Nigerian Constitution' [2007] (10) *Nigerian Current Law Review* 276.

6.8 Lack of Trust from the Public

In the minds of Nigerians, both the elite and the ignorant, public mistrust is currently the order of the day. So many Nigerians no longer have faith in the legal system. Their justifications are plausible: justice in Nigerian courts is only available to the wealthy.⁶² This claim, according to the researcher, is partially false. In the administration of justice, Nigerian judicial officials have done their best, and they have done so successfully. It is important to keep in mind that certain Nigerian judicial officers have performed to expectations throughout their careers, even though corruption and other societal vices plague the judiciary in Nigeria, just like in some other nations.

7.0 RECOMMENDATIONS

7.1 Independence of the Judiciary

The judiciary needs to become independent. The judiciary should maintain its independence in terms of hiring, compensation, punishment, and removal.

7.2 Amendment of Immunity Clause

The constitution's immunity provision has to be changed to allow for the trial of a President or Governor who disobeys a court order while in office. It is preferable to alter the immunity clause rather than completely remove it so that officials who disregard court orders can be tried and punished while still in office. An executive officer of the government being tried and sentenced while still in office does not interfere with his official responsibilities. This is because obeying the law, which even provided him with the framework for whatever job he may have, is a fundamental, if not moral, requirement.

7.3 Examining the Integrity of Judges Before Appointment

Before being appointed, judges should have their integrity reviewed. As a result, they will be able to decide cases impartially and based solely on their merits.

7.4 Zero Tolerance to Judicial Corruption

The judiciary should have a zero-tolerance policy for corruption. Any judge who is found to be lacking in his adherence to honesty and justice should be fired as part of a strong campaign and stance against corruption among judicial personnel. The fight against judicial corruption needs to be supported. No matter their status, all of Nigeria's

⁶² Ibid.

justices must be included. Additionally, their state of service needs to be examined and enhanced. It has been stated that judges should not have to worry about money.

7.5 Respect for the Jurisdiction of Courts

If a lower court acted without jurisdiction or in violation of the law, the judgment of that court is still valid and enforceable until it is overturned by an appellate court or by that court itself. Everyone against whom the judgment is given has an absolute obligation to obey the judgment until it is overturned. This is so that no party against whom the judgment is rendered would have the discretion to determine that the judgment is void and not applicable to him. Anarchy will essentially be invited as a result. Therefore, a party who is aware of an order—regular or irregular, legal or null—cannot be allowed to disobey it.

7.6 Respect for the Rule of Law

Recognizing that the state, including all governmental apparatus, is subject to the rule of law, the government must respect each person's rights for the rule of law to flourish. The expectation of government disobedience or disrespect for the law is lower than that of the public. Additionally, the judiciary is a crucial institution for the rule of law. This assumes that the judiciary must view the rule of law as the ultimate objective for her directives while interpreting and making decisions. Judges must uphold the rule of law, defend it, and enforce it without fear or favour. They must also reject any intrusion in any way.

7.7 Establishment of Strong Enforcement Mechanism

To avoid the possibility of a breach, the court's rules for the enforcement of court orders should be strictly and correctly adhered to. It goes without saying that in the Nigerian context, leaving judges in a position where they cannot even carry out their judgments ensures the judicial branch of government will always be powerless. The courts should establish an armed marshal to oversee enforcing court orders and procedures.

7.8 Role of Nigerian Bar Association and Human Rights Organizations

To combat disobedience of court orders in Nigeria, the Nigerian Bar Association and other human rights organizations should adopt a more proactive, energetic, and brazen position. When the country's court orders are disobeyed, they should routinely voice constructive criticism of the government. If necessary, they should expand it to lawful protests as well.

8.0 CONCLUSION

A court has the inherent and lawful authority to penalize or impose sanctions on anybody who disobeys its orders, and this authority exists largely to safeguard the administration of justice. Courts of law must defend themselves from defamation and mockery because disobeying a court's order constitutes serious contempt. Where there is persistent and ongoing disobedience of court orders, abuse of human rights, and disdain for the rule of law, no country can achieve an enviable level of economic, political, and sociocultural advancement and development. No country can attract investments or advancements if the court-established rights of its inhabitants are not upheld. To ensure that the executive branch of government in Nigeria, especially at the federal level, strictly complies with court rulings, it is important to grant complete autonomy to the judiciary and provide it with a robust enforcement mechanism.