THE ROLE OF THE JUDICIARY IN THE SUSTENANCE OF DEMOCRACY IN NIGERIA*

Rita Obianamma Maduagwu

Abstract
The concept of democracy needs to be clearly understood before we can appreciate the roles of the judiciary in its sustenance. Democracy is a system of government under which the people are expected to exercise the governing power either directly or through representatives periodically elected by the people. In Nigeria, the judiciary plays an important role as enshrined in the constitution. The role of the judiciary cannot be over emphasized as it is a stabilizer in the political system and has the extra duty of the protection of the constitution. This paper looks at the role of the judiciary in the resolution of intra-party disputes, death of a candidate before announcement of results, removal of the vice president by the president and resolution of disputes bordering on resource control. Despite the key role played by the judiciary in upholding a democratic society, there are however major impediments hindering the sustainability of democracy in Nigeria ranging from corruption, with independence of the judiciary, appointment of judicial officers, funding etc. This paper will centre on the role of the judiciary in sustaining democracy in Nigeria and its major challenges. The paper concludes that the judiciary has done wonderfully well to protect and sustain democracy in Nigeria despite its shortcomings as highlighted above. The paper also made some notable recommendations that will help sustain Nigeria democracy by the judiciary.

Key Words: Constitutional Law, Judiciary, Democracy and Nigeria

1 Introduction
Democracy is a system of government under which the people are expected to exercise the governing power either directly or through representatives periodically elected by them.1 Abraham Lincoln gave what has since become the most famous definition of democracy as government of the people, by the people and for the people.2 For there to be an effective administration of justice in a democratic setting, the judiciary has definite and decisive roles to play. The judiciary plays complimentary roles within the principle of separation of powers. It is an indispensable organ that balances the exercise of powers in the polity of any nation.3 The judicial arm of government, resolves conflicts involving individuals, organizations, government and political parties. The judiciary also

* Rita Obianamma Maduagwu is the Speaker Anambra State House of Assembly: NCE, B.Sc (Hons), LLB (Hons), BL, and also an LLM student Chukwuemeka Odumegwu Ojukwu University, Igbariam Campus, Uli.
has the power to review the actions of both the executives and the legislature. It has been playing pivotal roles in the dispensation of justice for a sustainable democracy.

In every civilized country, the judiciary is the last hope of the common man. The judiciary as a term applies to judges collectively. As the third arm of government, it protects democracy as well ensures administration of justice.⁴

An independent, impartial and informed judiciary holds a central place in the apprehension of good, transparent and accountable government. This is necessarily made possible by the provision that charges the judiciary with the function and responsibility to determine all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating to the determination to any question as to the civil rights and obligations of any person.⁵ However this paper looked at the role of the judiciary in resolution of intra-party dispute, death of a candidate before announcement of results, removal of the vice president by the president and resolution of dispute bordering on resource control which has the likelihood of truncating democracy in Nigeria. Despite the key role played by the judiciary in upholding a democratic society, there are however major impediments hindering the sustainability of democracy in Nigeria. These are corruption, lack independence of the judiciary, appointment of judicial officers, funding etc.

2. Concept of Judiciary

The Black’s Law Dictionary defines judiciary as the branch of government responsible for interpretation of the laws and administering of justice.⁶

The term judiciary designates a judicial system, comprising structure and jurisdiction of courts, appointment and tenure of judges and judicial proceedings. In current usage, the term judiciary specifically refers to the function of the judges in judicial process.⁷ The term judiciary, therefore embraces judges of superior courts and those of the junior courts, magistrate and district judges.⁸

The judiciary is the instrument of government against tyranny and oppressive hands. It has to ensure that the state is subject to the law; that government respects the right of the individual under the law. The courts adjudicate between citizens inter se and also between the citizen and the state. The courts therefore, have to ensure that the

---

⁸ Ibid
administrators conform to the law; they have also to adjudicate upon the legality of the exercise of executive power. The importance of the judiciary, in a free and democratic society, cannot, therefore be over emphasized.9

3. Functions of the Judiciary
The primary function of the judicial arm of government is that of adjudication, whereby a court determines the liability or otherwise of anyone who has breached the law.10

Interpretation of the law is another function performed by the judiciary. Legal interpretation goes hand-in-hand with adjudication. This is because whenever a matter is brought before the court for adjudication, the essence of finding the true meaning of law is made apparent, and whenever this is done, a judicial precedent is set, and it affects all future court decisions, thus, the judicial arm becomes actually engaged in law making through the process of the interpretation and consequent setting of judicial precedent.

Another function of the judiciary is the power of judicial review. This ensures that actions and activities of other arms of government and administration are in accordance with the law and constitution. Judicial review is the power of the court in appropriate proceedings before it, to declare a legislative or executive act either contrary to, or in accordance with the constitution with the effect of rendering the act invalid or vindicating its validity and thus putting it beyond challenge in future. It is the power of a court to examine the acts of the other branches of government, lower courts, public or administrative authorities and uphold them or invalidate them as maybe necessary.11

4. The Role of Judiciary in Sustaining Democracy in Nigeria
The judiciary no doubt has played a significant role in sustaining democracy in Nigeria. Since the inception of democratic governance in Nigeria, there is one organ of government which has exercised its function and which said function is targeted at ensuring the life of democratic principles. There are many ways through which the judiciary has protected Nigeria democratically. Unfortunately, the space and nature of this work will not afford the opportunity to discuss all of them. However, a few of them shall be discussed hereunder.

---

10 Ibid
4.1 Resolution of Intra-Party Dispute

Intra-party dispute is a dispute between members of the same political party. Just like inter-party dispute there existed and still exist a host of intra-party dispute. Intra-party dispute usually touches on the issues of control and management of a political party or sponsorship of a candidate for an election. Intra-party dispute nearly truncated the practice of democracy in Nigeria. Because of the recurrent nature of intra party disputes from 1st republic till date, there appear to be a legal development in that area. One vital area of discussion in this paper is the way the courts have viewed intra-party dispute.

This kind of dispute appeared at the centre of democratic governance in that political parties hanged on the attitude of the court to perpetuate injustice to their members. This is done by substituting a member who has emerged in primaries with another member, suspending a member who has prospects of winning primary election against the will of the party leadership.

The judiciary once viewed intra-party dispute as a non-justiciable cause. The courts regarded intra-party dispute as domestic affairs of a political party which the courts do not have competence to adjudicate upon. This position was also stated in a plethora of cases in Nigeria.

This position subsisted until the Electoral Act, 2006 was enacted. Upon the amendment of Electoral Act the position changed because the Electoral Act introduced the ‘consent and verifiable reason’ principle for substitution of a candidate and the court was emboldened to hold that it has jurisdiction to question the substitution of a candidate by political party. When the court insisted that it has jurisdiction to question that anomaly, the incidence of the act reduced. Also the legislature helped by amending the Electoral Act by removing the power of political party to substitute a candidate with another.

4.2 Death of a Candidate before Announcement of Result

This nearly truncated democratic governorship in Kogi State during the last governorship election in Kogi State. The Supreme Court of Nigeria recently saved democracy by ruling

---

12 The most recent of all the intra-party dispute is the dispute between Gov. of Abia State & his 1st runner-up in PPP Primary election in 2015 General election.
14 See Onuoha v Okafor (1983)4 NSCC494
17 Electoral Act, 2010
19 Electoral Act, 2010
that the 1st runner up of the deceased A.P.C. candidate Alhaji Mohammed Bello can step into the shoes of the deceased APC candidate Alhaji Abubakar Audu.

4.3 Removal of the Vice President by the President

The office of the Vice President is established under the Constitution. What applies to the Vice President also applies to a deputy governor with appropriate changes. The Vice President and the President are deemed elected together and under the constitution only the National Assembly can remove a vice president and only House of Assembly of a state can remove a Deputy Governor.

Notwithstanding this constitutional guarantee of the office of the Vice President and a Deputy Governor, efforts and attempts have been made by a President and Governors as chief executives to remove their Vice President and Deputy Governors. President Obasanjo once declared the office of Alhaji Atiku Abubakar his Vice Vacant. The court stepped in upon filing a suit by Atiku challenging the act. The Supreme Court saved democracy once again by saying no to the action of president Obasanjo. The judiciary takes it as a duty to check excesses of the executive or legislature. The Court of Appeal in Abaribe v Speaker reiterated that:

It is the duty of the judiciary to keep in check the excesses of the executive and the overriding and abrasive tendencies of the legislature so that each of these arms of government confines itself within its prescribed sphere of authority.

What the above means is that in checking the excesses of the other arms of government; the judiciary saves, protects and sustains the tenets of democracy in Nigeria.

4.4 Resolution of Dispute Bordering on Resource Control

This is another area wherein the judiciary has played enormous role in sustaining democracy in Nigeria. The issue borders on who controls resources in the federation and who gets what from the federation account. A lot of judicial pronouncements have been seen from these disputes. In some cases, the dispute will be between the Federal Government and other states government. In other cases, it will be between one state and another state as to who has the right to natural resources in a particular community. Sometimes the dispute will be between a particular state government and the Federal...
Government. This occurred prominently when President Obasanjo was in power. Obasanjo ceased the allocation meant for Lagos State government for years until the judiciary ruled that the Federal Government had no power under any circumstances to cease the allocation meant for local governments in Lagos State on the ground that Lagos State government created additional local government councils. At best the Federal Government will release the funds meant for the validly created local government councils in Lagos State. By holding this the judiciary saved, protected and sustained the principles of federalism which is an inherent tenet of democracy. This judgment influenced President Umaru Musa Yar’Adua who released the funds to Lagos State Government upon assumption of office in 2007.

4.5 Autonomy of Local Government
The scheme of control of local government under the constitution is an attempt to balance the logic of state control of local government in accordance with Federal theory, with the necessity of preserving a degree of autonomy for local governments from the overwhelming- and partisan manipulations of state governments. Autonomy of local governments have been tampered with in two major ways. One of them is the outright refusal of state governors to conduct elections into local government area councils. According Amucheazi and Onwuasoanya, Soon after coming to power, the civilian state governors proceeded to dissolve the elected local government councils for reasons largely of partisan party loyalty and effective control. Since then… no elections of local governments have been held, thereby making complete nonsense of the constitutional guarantee of the existence under the law of the system of local government by democratically elected local government council.

The judiciary played a role in ensuring that a democratically elected local government council is not dissolved at the will of a state governor. The courts have maintained that a state government cannot be at liberty to dissolve a local government council except where it has completed its tenure and there is an elected successor to be sworn in. In Akpan v Umah, the Governor of Akwa Ibom State dissolved an elected local government council of Ini Local Government Area and replaced it with a caretaker committee, purporting to act under a law made by the House of Assembly of Akwa Ibom State. The court held that the dissolution was unlawful. The practice has since then became a matter that is at the

---

26 See AG; Lagos State v AG; Federation (2005) All FWLR (pt 244) p. 805.
27 Op cit.
29 Ibid
whims and caprices of the state governors to conduct local government council election as it pleases them.

Another area where the autonomy of local government council was threatened but the court intervened is in the area of financial autonomy. Section 162 (5) & (6) of the Constitution provides that the amount standing to the credit of local governments shall be paid to the state for the benefit of the local governments on such terms and in such manner as may be prescribed by an Act of the National Assembly and each state shall maintain an account known as the State Joint Local Government Account into which shall be paid all allocations standing to the credit of local government councils of the state from the Federation Account and from the Government of the state.

From this provision, state governors take possession of allocation of their local government councils and give them as they like. This is a rape of democracy. But what role then has the judiciary played? In the case of AG Lagos State v AG Federation, the Supreme Court of Nigeria had the opportunity to state that even though by the provisions of section 162(5) & (6), the allocations of local government councils are to be paid into the State Joint Local Government Account, that the state governors have no right to tamper with the allocation. That the governors receive the allocation meant for local governments as trustees of the local government councils. By this the judiciary saved the country from rape of democracy.

4.6 Impeachment of the Chief Executive

This used to be a democratic cankerworm that tried to destroy the practice of democracy in Nigeria. There is hardly any state in Nigeria where the House of Assembly has not attempted to impeach the chief executive or his deputy. Before the present democratic dispensation, the court declined jurisdiction to question the impeachment of a governor by the House of Assembly of the state. The courts then treated impeachment as a political region where the courts could not go. The courts viewed the ouster clause in the Constitution with sanctity as clearly and unequivocally outing the jurisdiction of the court.

In Musa v Hauza, Alhaji Balarabe Musa the then second Republic Governor of Kaduna State under the Peoples Redemption Party (PRP) challenged his impeachment by the Nigerian Peoples Party (NPN) dominated Kaduna State House of Assembly. The Court of Appeal declined jurisdiction to entertain the matter. The court declared that:-

---

32 Supra
33 Musa v Kaduna State House of Assembly (1982)3 NCLR 463.
34 Constitution of the Federal Republic of Nigeria 1999 (as amended) ss. 143 (10) and 188 (10)
35 O.D. Amucheazi & Chudi Onwuasoanya op. cit. p. 197.
Whatever the supreme law of the land has vested unequivocally and in clear words in any of its principal departments cannot lightly be taken away by means of any construction extraneous and exotic to the expressed intentions and aspirations of the constitution. That the constitution has vested the power to remove the governor or deputy governor in the State House of Assembly is not questioned.\(^{37}\)

The above dictum seemed to mean that impeachment matters are exotic region that the courts are barred from entering. However, with the coming into effect of the 1999 Constitution and in the commencement of the present democratic dispensation, the attitude of the courts changed. The politicians wanted to take advantage of the cases of \textit{Musa}\(^{38}\) and \textit{Abaribe}.\(^{39}\) but the court said no, that an elected governor who acquired a right and tenure cannot stand and watch his right taken away and tenure truncated without a remedy. The court ruled that, for the ouster clause in the constitution\(^{40}\) to oust the jurisdiction of court that every constitutional procedural prescription must be complied with before the court can decline jurisdiction to question impeachment. This position of the court occurred in a plethora of cases.\(^{41}\) By the new activist position of the judiciary, the incidence of impeachment of chief executives of state governments in Nigeria drastically reduced. Democracy in Nigeria witnessed a serious threat during the era of incessant impeachment and threat of impeachment. But for the judiciary, democratic governance would have been truncated.

5 Challenges of the Judiciary in Sustaining Democracy in Nigeria

5.1 Corruption

Corruption is the misuse of public powers for private profit.\(^{42}\) A similar definition was adopted by the World Bank which describes corruption as an abuse of public power for private benefit.\(^{43}\) It is the act of doing something with the intent to give some advantage inconsistent with official office to procure some benefit either personally or for someone

\(^{37}\) See also \textit{Abaribe v Speaker Supra}, \textit{Ekpo v Calabar Local Government Council} (1993)3 NWLR (pt. 281) 324; \textit{Jimo v Olawoye} (2003)10 NWLR

\(^{38}\) \textit{Supra}

\(^{39}\) \textit{Supra}

\(^{40}\) 1999 as Amended section 188 (11)


\(^{43}\) \textit{Ibid}
else contrary to the right of others. It is further defined as the act of soliciting or accepting promises, gifts offers to accomplish or to abstain from accomplishing an act or office or employment that is not subject to a salary. Again Bairaman J (as he then was) in *Biobaku v Police* defined the word corruption as; receiving or offering of some benefit as a reward or inducement to sway or deflect the receiver from the honest and impartial discharge of his duties.

According to Adeyemi, the term corruption means; an offence which aim mainly at the conduct of public officials who take advantage of their position within public administration for the purpose of private gain. Literally, Hornby sees corruption as dishonest or illegal behaviour especially of people in authority. He also sees the concept as the act of making somebody change from moral to immoral standards of behaviour. The term corruption is more widely used by Doig to describe any use of official position, resources or facilities for personal benefit, or possible conflict of interest between public position and private benefit. Corruption has also been defined as efforts to secure wealth, or power through illegal means, private gain at public expense or a misuse of public power for private benefit. It has also been defined to include all forms of improper or selfish exercise of power and influence attached to a public as well as private office. According to the Black’s Law Dictionary corruption is;

An impairment of integrity, virtue or moral principle; especially the impairment of a public official’s duties by bribery or the act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others; a fiduciary or official use of a station or office to procure some benefit either personally or for someone else, contrary to the right of others.

---

49 Ibid
In all, corruption as a term means a dishonest and immoral conduct. There is no doubt that corruption is one of the challenges facing the judiciary in Nigeria, and this act can come in its various forms.

Corruption in Nigeria is said to be the commonest disease that has eaten deeply into the different facets of life in the country. Speaking on the issue of corruption, the vice president of Nigeria Professor Yemi Osibanjo opined that corruption is endemic in all sections of our society, including the three arms of the government. He asserted that corruption is discernible even in the judiciary. Allegations of corruption in the Nigerian judiciary have been mounting from as far back as 2005 and earlier. In that year the then Chief Justice of Nigeria, Justice Mohammed Uwais, warned light-fingered judges against corrupt practices. At the opening of the All Nigeria Judges Conference, Uwais observed that corrupt practices had blemished the character of judges and amplified public misgivings relating to the moral character of members of the judiciary. In the same vein at a special session of the Supreme Court to commemorate the start of the 2011/2012 legal year the then president of the Nigerian Bar Association (NBA) Joseph Bodunrin Daudu, unequivocally spoke on the issue of corruption in the judiciary. He said there was “a growing perception backed up by empiric evidence that justice is purchasable on several occasions in Nigeria. We are reaching the point in time where accusations of corruption in the system will be at its loudest. It is not surprising therefore that one hears of reports of High Court judges and magistrates dismissed, disciplined or suspended because they compromised their high office and sold their professional integrity for financial gratification. The most recent allegations of corruption raised against some judges by the Federal Government, has indeed showed how low the judiciary has sunk with regards to the issue of corruption. Although the cases against most of the accused judges have not been concluded, some of the evidence elicited during the trial of some of them on the list, are extremely perturbing. While a court may not see fit at this time to conclude that the evidence tendered at trial so far, reaches the thresholds to convict for a criminal offence, the evidence non-the-less creates deep impressions about the weakness of the Nigerian Judiciary in the minds of reasonable observers of the trial.

57 Ibid
5.2 Lack of Independence of Judiciary

The United Nations’ Declarations on the Basic Principles on the Independence of the Judiciary, 1985 stipulates that:

The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law without any restrictions, improper influences, inducements and interferences, direct or indirect from any quarter for any reason.\(^{59}\)

In confirming this position, the Court of Appeal held in the case of Denton West v Muoma\(^ {60}\) that the importance of the competent, independent and impartial judiciary in preserving and upholding the rule of law cannot be over-emphasized. There is no doubt that public confidence in the independence of the court, in the integrity of judges that man such courts, and in the impartiality and efficiency of the administration of justice as a whole, play a great role in sustaining the judicial system of nation.\(^ {61}\) Independence of judiciary can be said to mean the ability of a judge to decide a matter free from pressures or inducements.\(^ {62}\) The principal role of an independent judiciary is to uphold the rule of law and to ensure the supremacy of the law.\(^ {63}\) The rationale behind the need for the judiciary to be independent is that, it will sustain the public confidence in the courts. Therefore, independence of the judiciary is often measured or described in relation to the amount of control (undue, inappropriate or illegal) internal or external influence\(^ {64}\) exerted over the judges.\(^ {65}\)

The performance of the judiciary determines to a great extent the stability of both the polity and other branches of government. Independence of the judiciary is an indispensable prerequisite of a civilized and developed society under the rule of law. Such independence implies freedom from both the executive and legislative excesses and interference. The concept of independence of judiciary means that judicial officers can never be put to pressure directly or indirectly in the performance of his or her duty. They cannot receive orders from anybody or authority no matter how highly placed. Judicial

---


\(^{61}\) FAR Adeleke, op cit.


\(^{65}\) FAR Adeleke op cit, p. 300
officers should be free to give orders or judgment that must be respected by the executive, legislature and entire society.

Our own Justice Oputa eulogized the judiciary as follows:

“Who can doubt the primacy of the judiciary in the social experiment? It is only the judiciary which can in the final result and as the last resort, translate the dreams of Nigeria, dreams inscribed boldly in her constitution, her dreams for national unity, for domestic tranquility, for individual freedom and personal happiness through the full release of her citizens from prejudice and oppression, through the full utilization of all her human and natural resources and potential, towards the creation of a great nation characterized not by power alone but respect for the human dignity and by the assurance of equal justice under the law for all”…

Independence of the judiciary is guaranteed under the Constitution as opposed to the 1963 Republican Constitution which had the judiciary as an appendage of the executive. The vesting of judicial powers in the courts established by the 1999 Constitution imposes onerous responsibility on judicial officers whose primary function is to administer justice according to law and the constitution. The nature of the office and functions of judicial officer’s call for a high sense of duty, responsibility, commitment, discipline, great intellect, integrity, probity and transparency.

In the execution of its mandate of interpretation of law and administration of justice, the judiciary is not tied to the apron string of any political party, pressure group, religious, racial or ethnic group, sex, geo-political entity. This means that, the judiciary is to dispense justice to all manner of people without fear or favour, attention or ill-will. Lord Atkins put the above position clear when in the case of *Live Sidge v Anderson*, he held that:

It is principle of liberty… that the judges are no respecter of persons and stand between the subject and any

---

67 Constitution of the Federal Republic of Nigeria 1999 S. 17(1)(e)
68 RO Maduagwu, op cit. p. 3.
69 I Abdullahi, op cit p. 57.
70 Ibid
Rita Obianamma Maduagwu: The Role of the Judiciary in the Sustenance of Democracy in Nigeria

attempted encroachment on his liberty alert to see that any coercive action is justified in law.

Independence of the judiciary in a democratic society must be in line with the following principles:

a. The independence of the judiciary shall be guaranteed by the state and enshrined in the constitution or the highest law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

b. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, influences, inducements, pressures, threats or interferences, direct or indirect from any quarter or for any reason.\textsuperscript{72}

c. The judiciary have jurisdiction over all issues of a judicial nature and shall have exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law.

d. Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures.

e. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are to be conducted fairly and that the rights of the parties are respected.\textsuperscript{73}

Absence of independence of judiciary has been a threat to Nigeria nascent democracy and its sustainability. The ways in which judges are appointed and subsequently promoted are crucial to their independence. Judicial officers must not be seen as political appointees, but rather for their competence, political neutrality and legal ability. In the words of Chief Afe Bablola SAN giving a lecture on the role of the judiciary in the sustenance of Democracy in Nigeria; it is stated that when appointment of men and women to the bench is premised on extraneous considerations such as god-fatherism political connections, religious learning, federal character (without any regard for merit and competence) and monetary inducements, the ultimate victim is Justice.

5.3 Disobedience of Court Orders

The judiciary is usually faced with the challenge of persons and authorities refusing to obey court order. Sometimes the executive arm of government fails to obey judicial orders. This is one of the major challenges that pose a threat to independence of judiciary in Nigeria. This can take a variety of forms ranging from disobedience of court orders to non-compliance with due process. There should be respect for orders of the court as it


\textsuperscript{73} Ibid.
was stated in the case of Governor of Lagos State v Ojukwu\textsuperscript{74} where the court held that the decision or orders of the court is to be obeyed except it is unjust, illegal or contrary to the rules of law in which case such a person can appeal.

5.4 Lack of Financial Autonomy
Amongst the various challenges of judiciary in the sustenance of democracy in Nigeria is lack of financial autonomy of the judiciary. This is the most experienced challenge. It is rather unfortunate that in Nigeria the power of the purse resides in the executive and legislature as this hampers the independence of judiciary. Although the Constitution\textsuperscript{75} ostensibly grants financial autonomy to the judiciary by providing that the recurrent expenditure of judicial officers of the federation and the states shall be a charge upon the Consolidated Revenue Fund of the federation. But in practice, the financial autonomy of the judiciary is still a mirage.

6. Conclusion
The judiciary in Nigeria has played a significant role in the Nigeria democratic processes. Nigeria has witnessed series of political events that ordinarily would have led to a return to military rule but for the intervention of the judiciary. As the masses regard the judiciary as the last hope of a common man, they have indeed been the last hope of the Nigerian democracy in the events of serious political threats to democracy. These threats happened in so many facets of the democratic governance beginning from constitutional loopholes in the electoral process. Sometimes the courts have adopted the doctrine of necessity to save the nation from a return to military rule instead of the literal rule of interpretation which focuses on the ordinary grammatical meaning of the words used. This paper concludes that, the judiciary though has its shortcomings, as was discussed above, has done wonderfully well to protect and sustain democracy in Nigeria.

7. Recommendations
Having discussed the roles the judiciary played and is still playing in the sustenance of democracy in Nigeria and after identifying the challenges the judiciary is facing in the performance of this role, the paper recommends the following:

- Strict adherence to the provision of section 81(5) of the constitution of Federal Republic of Nigeria 1999 as amended so that the judiciary will get every allocation standing to its credit directly from the consolidated funds.
- Institutionalization of an effective mechanism for fighting corruption in the judiciary.
- Appointment of judicial officers should be left in the hands of the National Judicial Council without the involvement of the executive arm of government.

\textsuperscript{74} [1986]1 NWLR (pt 621) SC
\textsuperscript{75} Constitution of the Federal Republic of Nigeria 1999 s. 84(2)(4)(7) and 121(3)
• Following from the last point, Discipline of Judicial Officers should also be left with the National Judicial Council so that judges will be emboldened to deliver judgments involving government without fear or favour.
• Appointment of specialized and activist judges to be in charge of the judiciary.