



## Elites Dominance and Weak Institutions in Nigeria: A Front Row Account of the Nigerian Judiciary (2019-2024)

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### Abstract

This study examined the dominant and overbearing influence of political elite in Nigeria and its effect on the Judiciary. In less developed countries, including Nigeria, the overbearing power of elites often supplant institutional framework leading to partial administration of justice for vested interest. The research aimed at assessing how the concentration of power on elites negatively impact on institutional effectiveness of the judiciary and the justice system thereof. The theoretical framework adopted for the study was power theory which emphasizes that power is not just held by individuals but is dispersed across various institutions and practices. The concentration of power among influential individuals weakens institutional mechanisms designed to support sustainable judicial framework. The study used documentary method of data collection and qualitative-descriptive method of content analysis. The study revealed among others that the appointment procedure for judges may be manipulated to make the appointed judicial officers stooges of the executive, and that what might appear as a mere gestures of goodwill like car, house and properties from elites to judges, morphs into a sophisticated form of dependency that translate into quite enforcement of political interest. The study recommended that appointment of judges should not be exclusively determined by National Judicial Council, but the procedures and standards for appointment of judges should be predefined and published in the media, on court notice boards and websites. It also recommended that Judges should be given opportunity to discreetly return the benefits, favours, and support they once accepted,

thereby restoring their capacity to dispense justice impartially without the shadow of political obligation.

### I. Introduction

There has never been a time in Nigeria's political history when the impartiality and independence of the judiciary have been under greater threat than now. Many scholars have explored the role of the judiciary in promoting good governance and strengthening democracy as the world continues to evolve in a dynamic and changing system. The judiciary is not only a core institution of government but also a crucial arm in a presidential system like Nigeria's, where the principle of separation of powers is fundamental. Lack of robust institutions, particularly the judiciary, has led to conflicting rulings by various courts, including both High Courts and appellate courts. A clear example of this occurred in the case of Edo State Governor, Godwin Obaseki's participation in the People's Democratic Party (PDP) governorship primary election on September 19, 2020. The case resulted in two contradictory orders. While the Federal High Court in Port Harcourt issued an order barring Obaseki from participating, the Edo State High Court in Ekpoma cleared him for the election. This disagreement between the two courts created confusion and differing opinions within the public sphere (Ndujihe et al, 2020).

A key factor contributing to these challenges is the imbalance between powerful individuals and weak institutions. In Nigeria, power tends to be concentrated in the hands of a few influential figures that exert substantial control over



political, economic, and social processes. This centralization of power weakens the institutions that are meant to ensure transparency, accountability, and good governance, resulting in a governance structure that is more driven by personal influence than by institutional integrity (Osoba, 1996). For example, some Nigerians have accused the Minister of the Federal Capital Territory (FCT), Nyesome Wike, and the Tinubu administration of exerting excessive influence over the judiciary. This is compounded by the fact that the executive branch has the authority to appoint judges, with input from the National Judicial Council, which is chaired by their appointee, the Chief Justice of Nigeria (CJN). Additionally, practices such as the distribution of cars and housing benefits can lead political elites to shape judicial outcomes. Odinkalu (2024) highlights how Wike has built a system of influence through strategic gifts, including cars and houses, which create subtle obligations for judges to align their rulings with his interests. This influence is reflected in the conflicting rulings by High Courts and the Federal High Court in the ongoing political dispute between Governor Fubara of Rivers State and his predecessor.

The dominance of powerful individuals over weak institutions has significant long-term consequences for Nigeria's developmental progress. Usman et al (2015) argue that weak institutions represent a state of decline or an inability of government agencies to effectively carry out their fundamental responsibilities. When institutions are weak, government agencies lack the necessary resources, powers, or internal mechanisms to ensure accountability and oversight. The undue influence of government officials over these agencies reflects the weakness of these institutions. In environments where government institutions are strong, public officials are less likely to manipulate or influence decisions for personal gain. Therefore, weak institutions foster corruption, inefficiency, and diminished productivity, with a fragile judiciary often delivering verdicts that undermine good governance and fairness in the justice system.

In support of this view, Ogayi and Onyebuchi (2024) contend that weak or dysfunctional institutions lead to poor governance. This stems from the state's inability to project and implement a developmental vision, prioritize its goals, and effectively fulfill its commitments. In such environments, strong personalities emerge to fill the leadership vacuum, making it difficult to achieve good governance. The varying levels of development worldwide often reflect the strength or weakness of governance institutions. The

consequences of this imbalance are evident in key areas of judicial development, including judicial appointments, material inducements, and even threats to personal safety.

Furthermore, the imbalance between powerful individuals and weak institutions significantly contributes to widespread corruption in Nigeria. As noted by Transparency International (2022), Nigeria consistently ranks poorly on the Corruption Perceptions Index, highlighting the pervasive corruption often enabled by the collaboration between powerful individuals and weak institutional oversight. The personalization of governance, where decision-making is largely driven by individual interests rather than institutional mandates, exacerbates corruption and hinders the establishment of an independent judiciary (Ekpo & Chime, 2020).

The concentration of power among a few elites erodes the effectiveness of institutions, leading to a judiciary that is manipulated and overly dependent on these elites. This often results in inconsistent court decisions, corruption, and increased political friction. The study, therefore, seeks to investigate the challenges created by elite control and its detrimental impact on the judiciary's independence and institutional integrity in Nigeria. By exploring these issues, the research aims to shed light on how elite influence undermines judicial independence and its broader consequences for governance and justice in the nation.

## 1.2 Statement of the Problem

The persistent concerns raised by the majority of Nigerian citizens regarding the role of the judiciary in the country's development highlight a critical issue: the imbalance of power between the ruling elite and institutional integrity. The judiciary, as a key institution of government, is responsible for interpreting laws enacted by the legislature and resolving legal disputes involving individuals, the government, and corporate entities. It also plays a pivotal role in adjudicating constitutional matters that arise between the executive and the legislature. For the judiciary to fulfill this role effectively, it must remain independent and free from political interference, ensuring that it upholds the sanctity of the law, regardless of the parties involved.

However, this ideal is compromised by the concentration of power among a small group of elites, which results in a judicial system that is more influenced by individual interests than guided by institutional norms. This manipulation of the judiciary undermines its capacity to function impartially, contributing to a range of issues such as



corruption, incompetence, and poor decision-making. One manifestation of this problem is the prevalence of conflicting judgments, which often serve the interests of powerful individuals rather than being based on objective legal principles. These contradictory rulings not only breed tension but also destabilize the political environment. The challenge is further compounded by a lack of institutional mechanisms to ensure accountability. In a context where institutions are weak, mechanisms for holding individuals accountable for their actions are either absent or ineffective. This dynamics leads to a psychological and material dependency on the elites, where judges may feel compelled to align their rulings with elite interests. Small gifts, such as cars or housing from influential figures, can evolve into subtle forms of pressure, creating a system in which judges' verdicts are shaped more by loyalty to those in power than by an unbiased application of the law. As a result, the judiciary, which should be the last line of defense for the common citizen and a check on the excesses of the executive and legislature, is often compromised by corruption or direct interference, further eroding the rule of law.

In light of these challenges, this study aims to critically examine the imbalance between elite influence and the judicial in Nigeria, exploring the extent to which elite dominance has compromised the integrity of the judiciary and, by extension, the broader governance framework. The following objectives will guide the investigation:

### 1.3 Objectives of the study

The objectives of this study are:

- i. To examine whether politicization of judges' appointment by the executive affect their legal decisions.
- ii. To ascertain whether generosity of material gifts from political elite to judges enhance elite interest

### 1.4 Research Questions

The study posed the following questions:

- i. Does the politicization of Judges Appointment by the executive affect their legal decisions?
- ii. How does generosity of material gifts from politicians to the judges enhance interest of the ruling class?

### 1.5 Significance of the study

This study holds both theoretical and practical significance in addressing the dominance of elite influence over weak institutions, particularly the judiciary. From a theoretical perspective, it contributes to ongoing scholarly discussions about the impact of elite control on the judiciary. The

study demonstrates that impartial and independent judicial decision-making, facilitated by unbiased judges, fosters the legitimacy and acceptance of court judgments. It provides valuable insights into the judicial process, thereby serving as an important reference for future research on the topic. The findings of this study are expected to offer guidance to the judiciary on how to mitigate undue external influence, ensuring the entrenchment of transparency and integrity in legal proceedings.

From a practical standpoint, the study is of substantial value to the judiciary as a critical government institution, as well as to policymakers concerned with the strengthening of institutional frameworks. It highlights the importance of judicial independence for ensuring effective governance and the rule of law. Furthermore, this research will contribute to the development of practical solutions to the challenges faced by Nigeria's judicial system, advancing knowledge on strategies for institutional reform. Ultimately, the study seeks to offer the judiciary actionable recommendations for delivering objective legal decisions that align with global best practices, thereby enhancing the credibility and effectiveness of the legal system in Nigeria.

## 2.1 LITERATURE REVIEW

### 2.1.1 CONCEPTUAL CLARIFICATION

Review was carried out in the following related subthemes:

#### Concept of Elite

The term "elite" refers to a select group of individuals regarded as the most influential or skilled within a particular society or organization (Soanes et al 2006). Elites can be classified into various categories, such as governing or political elites, business or entrepreneurial elites, intellectual or knowledge elites, among others. Each group plays a significant role within its respective domain, contributing to the structure and functioning of society.

For the purpose of this seminar paper, the focus is specifically on the governing or political elites. This group of elites occupies a central position in the political landscape of any nation-state. They are typically composed of individuals who hold key positions in political institutions, including elected officials, political party leaders, high-ranking civil servants, and influential political advisors. These individuals are tasked with managing and directing the political and administrative affairs of the state, including decision-making on issues of governance, public policy, and resource distribution.



Political elites are often seen as the primary drivers of policy and change within a nation, and their influence extends beyond formal political roles to include control over economic, social, and cultural aspects of governance. They wield considerable power in shaping public opinion, forging political alliances, and maintaining the political status quo. In democratic systems, these elites are usually subject to public scrutiny and electoral processes, but in more autocratic regimes, their control can be more consolidated and less responsive to popular will.

### 2.1.2 Typologies of Elites

#### i. Knowledge Elites

In today's world, knowledge is considered the most valuable asset. Individuals who generate, disseminate, and apply knowledge possess a unique advantage in the global landscape. The concept of knowledge elites refers to those whose key characteristic is the exceptional talent and expertise they possess, which serves as the primary link among them (Solimano&Avanzini, 2010). These elites span a variety of fields, including those who produce scientific knowledge, those who apply scientific and technological advancements to production, business, and innovation, as well as those involved in social and cultural activities that add value to society.

Globalization plays a crucial role in the widespread distribution of new information technologies, products, services, and ideas across national borders. The knowledge elite occupations include independent professionals and experts, academics, scientists, and researchers working in universities and research centers. It also encompasses executives and managers in multinational corporations, as well as the professional staff of public international organizations. The international dimension of knowledge elites is evident in the way ideas, knowledge, and technology circulates across countries, fostering global interconnectedness.

The development of knowledge elites occurs in both source and receiving countries. In source countries, it is facilitated through domestic and international education systems, including international students and professionals, as well as through exchange programs. In receiving countries, there is an emphasis on supporting the education and development of foreign talent, often through collaborations with origin countries to encourage the repatriation of skilled individuals. This flow of talent enhances the movement of knowledge, ideas, and technological innovations, directly influencing

economic activities in both the source and receiving nations. The exchange of knowledge elites is a critical factor in driving innovation and fostering economic growth globally (Solimano, 2000).

#### ii. Entrepreneurial Elite

Entrepreneurial elites are individuals with exceptional skills in wealth creation, resource mobilization, and innovation. Unlike knowledge elites, entrepreneurs are not necessarily characterized by formal university education, which sets them apart from individuals whose expertise is based on academic achievements. The primary role of entrepreneurs lies in organizing production processes and driving innovation. They are essential agents of economic growth and development, often initiating the creation of new businesses and organizations while bringing capital and new technologies into play. While the distinction between knowledge elites and entrepreneurial elites may seem clear, it is, in fact, a thin line. For instance, managers and technicians play a crucial role in the establishment of businesses, which is traditionally viewed as the domain of entrepreneurial elites. In this regard, there are significant complementarities between these two groups of elites, as both contribute to the innovation and expansion of businesses.

Although the concept of entrepreneurship has ancient roots, its precise definition remains complex. In economic theory, one of the defining characteristics of entrepreneurs is their willingness to take risks—a concept highlighted by economists such as Frank Knight and Joseph Schumpeter. Entrepreneurs demonstrate the ability to combine capital and labor to seize opportunities and generate profits. In Schumpeter (2008) view, entrepreneurs act as catalysts for resource mobilization, investment, and innovation.

Furthermore, the "psychology" of the entrepreneur tends to differ from that of scientists, experts, or intellectuals, who are typically associated with the term "human capital" and belong to the knowledge elites. Entrepreneurs are often more risk-tolerant and proactive in seizing opportunities, whereas professionals, scientists, and engineers, who are generally employees rather than owners, tend to be more risk-averse. This distinction highlights the unique characteristics of entrepreneurial elites in comparison to the more cautious, specialized focus of knowledge elites (Solimano, 2010).

#### iii. Political Elite



The third category is the political elite, which encompasses a diverse group of influential figures, including party leaders, legislators, heads of state, presidents, and leaders of social movements connected to political parties. These individuals often possess extensive social networks, with their power deeply rooted in their home countries. This concept is closely related to the idea of the "power elite" as discussed by sociologists such as Wright-Mills (2000) and Mosca (1960), who emphasized the concentration of power in the hands of a small, influential group that shapes societal structures.

Political elites play a crucial role in governance by either facilitating or hindering the achievement of political consensus. Their influence extends to shaping the political environment and institutions, which are essential for ensuring stability, protecting property rights, and fostering an atmosphere conducive to investment and innovation. In this regard, political elites contribute to the long-term prosperity of a nation by creating an environment that promotes economic growth. However, when political elites fail to establish a stable political climate or foster social peace, or when they engage in excessive rent-seeking and corruption, they can significantly impede economic development. In such cases, their inability to provide effective governance or to secure the necessary conditions for economic progress can delay or even reverse development efforts. Thus, the role of political elites is pivotal not only in shaping the political landscape but also in determining the broader trajectory of a nation's economic and social well-being.

### **2.1.3 Concept of Elite Dominant**

Dominant elites are highly influential individuals within political, economic, or social structures who wield considerable power, allowing them to shape public policies, manipulate key institutions, and bypass legal frameworks to serve their personal or collective interests (Kellerman, 2018). These elites often circumvent democratic institutions, undermining the checks and balances inherent in the system, to advance their agendas, capture the policymaking process, and block efforts aimed at redistributing wealth or power (Acemoglu & Robinson, 2008). By doing so, they concentrate decision-making power in their hands, which can lead to systemic imbalances and entrench inequities within society.

The ability of dominant elites to influence various sectors stems from their control over critical resources, political connections, and social capital, which gives them an outsized role in shaping the

direction of governance and policy (Dahl, 1957). These individuals frequently act as power brokers, using their networks and influence to control and direct the actions of others, particularly in ways that benefit their own interests. They often manipulate political, economic, and legal institutions to maintain their privileged position, ensuring the persistence of systems that favor them while stifling efforts for reform or redistribution (Acemoglu & Robinson, 2012). As a result, the actions and policies they endorse often prioritize their personal or group gains, sometimes at the cost of broader societal welfare. As authority, dominant elites exert significant sway over institutional operations, steering the outcomes of policy implementations and the enforcement of laws, often in ways that reinforce their own power and status (Weber, 1947). Their control extends beyond formal governance structures, influencing public opinion and shaping societal attitudes through their dominance in the media, political systems, and economic markets. This control over public discourse enables them to manipulate perceptions, consolidate support, and suppress opposition, ensuring their influence remains unchallenged. Moreover, these elites possess strategic decision-making power that enables them to influence the direction and effectiveness of policies in a way that overrides institutional checks and balances (Friedman & Phillips, 2016). This concentrated power allows them to manipulate economic, political, and social systems, ensuring that policies and reforms align with their interests, thus sustaining their dominance and protecting their access to resources and influence. In doing so, dominant elites play a critical role in shaping the socio-political landscape, often in ways that entrench their privileged position while undermining the possibility of equitable development or systemic change.

### **2.1.4 Concept of Weak Institution**

Institutions are a vital component of any political society, as they represent the systems that create rules and structures to guide human behavior, ensuring that individuals act in ways that promote social interaction, order, cooperation, and economic progress (Nganje, 2015). When institutions are weak or fail to perform their duties, the state is unable to deliver essential political goods, which can lead to a deficit in governance and increase the risk of democratic backsliding. In societies that are culturally plural and religiously fragmented, such as Nigeria, the effectiveness of the government is often measured by its ability to construct an institutional framework that fosters peaceful coexistence among



its diverse population. The government's capacity to manage this diversity through representative governance, a fair and impartial judicial system, and an efficient law enforcement agency is crucial. In such contexts, the integrative process of governance becomes essential for maintaining stability and ensuring that the rights and expectations of all citizens are met (Azoro, et al., 2021). Thus, the strength of institutions in promoting social cohesion and maintaining democratic values is critical in ensuring that a country can manage its diversity effectively and sustain political stability over time.

States with weak institutions often experience ineffective or poor legal frameworks. The effectiveness of these institutions is contingent upon their independence, accountability, transparency, and the absence of undue external influence. Institutions that operate freely from control and are accountable to the people are more likely to foster trust and legitimacy in the government. The success or failure of a democracy is directly linked to a state's ability to deliver political goods, which reflect the expectations that citizens hold regarding government performance. Political goods are the basic services and protections that citizens expect from their state, such as an enforceable rule of law, protection of property rights, the sanctity of contracts, a functioning judicial system, and a set of shared values that validate what is considered fair and just within that society (Rotberg, 2016). These political goods also include the establishment of an environment that allows for meaningful citizen participation in political processes. The ability of a government to provide these goods is ultimately a function of the strength of its institutions. To further buttress on the concept of weak institution, it is imperative to look at the indicators of weak institutions.

#### Attributes of Weak Institutions

**1. Predatory State which Abhors Counter pressure:** This has to do with a state that prioritizes the interests of a dominant group over the good of the people. Predatory states often hinder economic development and do not protect private property rights.

**2. Lack of Institutional Accountability:** This can lead to corruption, ineffective governance, and a breakdown in public trust. It can also have negative consequences for a country's economy, society, and the quality of life for its citizens.

**3. Weak Political Parties:** When party systems are weak, there is a risk that voters have less information and votes are therefore cast with limited information on what policies candidates will pursue

as elected representatives. Elected officials also have weaker accountability to organized citizen participation.

**4. Electoral institutions are Fragile:** This has to do with extreme judicial interpretation by the courts and structural manipulation of the electoral process by politicians. INEC still lacks the required power to prosecute electoral offenders. This represents a huge challenge for the commission especially in the light of the challenges of vote buying and commercialization of political primaries.

**5. Political Support derives from System of Patronage:** It's a practice in which a political party and candidates gives government jobs to its supporters, friends and relatives after winning election, as an incentive to keep working for the party as opposed to a merit system where offices are awarded or promoted on merit.

When the aforementioned attributes play out in a state, it is obvious that institutions of the State are weakened, thereby causing policy decisions and implementation to be skewed towards the interest of the elites as against the interest of the general public. For instance, in a predatory State like Nigeria, the exploitation of public and private resources for the gain of the elite is embedded in institutionalized practices.

#### 2.1.5 The Judiciary as an Institution in Nigeria

In a system of government where powers and functions are distributed among its branches, the judiciary is the arm responsible for interpreting the law, resolving disputes, and applying the constitution (Danmaigauta & Tanko, 2020). Essentially, it is the branch entrusted with the responsibility of interpreting legal provisions and ensuring the fair administration of justice. In the context of Nigeria's Constitution, the judicial power is vested in the courts, judges, magistrates, and heads of quasi-judicial bodies (Ikpeze, 2015). The Chief Justice of Nigeria serves as the head of the judiciary, overseeing the judicial system. The appointment of judicial officers is carried out by the executive, based on the recommendations of the Federal and State Judicial Service Commissions, with the approval of the legislature. The judiciary, often regarded as the guardian and promoter of human rights, plays a vital role in sustaining Nigeria's democratic framework. According to Ogu (2021), the functions of the judiciary include:

**i. The Judiciary interprets Laws:** The primary function of the judiciary is to interpret the laws/constitutions of the country.

**ii. Settles disputes:** The judiciary adjudicates cases between the Executive and Legislature and also



settles disputes between political parties, individuals and organizations. Judiciary is a legal expert.

**iii. Protects rights and liberties of Citizens:** Judiciary protects citizens rights and liberties. Judiciary can order for the release of person or persons detained unjustly.

**iv. Advices the Executive and Legislature:** The judiciary advices the Executives on some sensitive issues such as exercise of prerogative of mercy. The Judiciary can also advice the legislature on some sensitive issues such as constitutional preparations and amendments.

**v. Punish law breakers:** Judiciary make sure that the law is obeyed by the citizens. Those who refused to obey the law are punished.

**vi. Determines election petitions:** Nigerian Judiciary hears and determines election petitions and ascertain true winner of elections.

In the same manner, (Ibiyemi et.al 2001) outlined the functions of judiciary as; “interpretation of laws, settlement of disputes between parties, individuals, organizations and government, whether they are civil or criminal cases. The judiciary also ensures that the law is obeyed. It determines whether a person, organization or government is innocent or guilty and applies penalty as appropriate. The judiciary interprets the constitution, and protects it against violation. Judicial institution can declare any action of government unconstitutional, and therefore null and void. The Judiciary as a powerful institution in democratic dispensation determines who is innocent and who is guilty, and at the same time punished offenders depending on the gravity of the offence committed. For instance, a state high court presided over by Justice Okon Okon in Uyo, Akwa Ibom State sentenced two women to 14 years in imprisonment each for trafficking in children. The convicts were jailed for trafficking in children whose ages range between one and two for the sum of N500,000 each (Anichebe, 2022). The judiciary determines who is guilty or innocent. The guilty are usually punished by the judiciary after due processes.

According to Abiodun (2023), the Appeal court, Ado Ekiti Division reinstated 118 workers of Ekiti state University Ado Ekiti, who were sacked in December, 2019. They included 32 staff members of the laboratory department who were reinstated by the Appeal court of March 25 and 86 other employees consisting of academic and non-academic staff members who were reinstated by the appellate court.

### 2.1.6 Challenges that Weakened Judicial Institution in Nigeria: An overview

The Nigerian Judiciary has faced numerous challenges that hinder its ability to fully discharge its constitutional duties. One of the most significant concerns is the appointment of judges by the executive, which many argue undermines the independence of the judiciary and weakens the institution as a whole. The process, which involves the executive arm of government selecting judicial officers, has led to concerns about potential political influence and bias in judicial decisions. This has been a source of criticism, as it is perceived to compromise the impartiality and autonomy that is essential for the judiciary to function effectively as the guardian of justice. According to Bakare (2019), “the judiciary in Nigeria is burdened with a lot of problems inhibiting its chances to live up to the famous appellation, as the last hope of the common man.” These challenges include alleged politicization, delays in the resolution of cases, logistical issues, and the inconsistency in rulings across different courts on similar matters. Such problems significantly impede the judiciary’s role in upholding justice and maintaining the rule of law. If these issues are not addressed, the judiciary's ability to serve as a fair and neutral arbiter in legal disputes will continue to be compromised, undermining public trust in the system. These problems should therefore be rectified to ensure the judiciary meets the high expectations placed upon it, particularly as “the last hope of the common man” (Bakare, 2019).

Furthermore, Sobowale (2023) highlights the frustrations stemming from perceived judicial inefficiencies, citing a case that underscores the conflict between executive authority and judicial independence. Sobowale notes, “I can understand the frustrations, anger and sense of impatience of Kanu who was arrayed against a lawless Federal Government in what is supposed to be democracy. A competent court of law has ordered that he be set free; the FG had even been asked to pay him damages. But Buhari and his minister of Justice and Attorney-General of Federation, Abubakar Malami, in an executive lawlessness have disobeyed the court order, as they have done several others, thereby weakening judicial institution.” This instance reflects a broader problem of non-compliance with judicial orders by the executive branch, further undermining the judiciary's authority and its role in ensuring that the government acts within the law. Such executive disregard for court orders not only weakens the legal framework but also erodes public confidence in the judiciary's capacity to uphold justice.

The independence of the judiciary is crucial for the effective functioning of any democracy, and



in Nigeria, efforts to address these challenges such as judicial reforms, improving case management, ensuring the autonomy of judicial appointments, and enhancing enforcement of court orders are essential for restoring the integrity and strength of the judicial system.

### **2.1.7 The Impact of Elite dominance on Institutional Effectiveness of the Judiciary in Nigeria: an Assessment**

The concentration of power in the hands of a few influential individuals has far-reaching consequences for the effectiveness of judicial institutions in Nigeria. When decision-making is centralized, governance often becomes overly personal, undermining the independence of institutions designed to act in the public's best interest. Adebayo and Ojo (2020) assert that in such settings, individual influence often takes precedence over institutional structures, with the rule of law becoming secondary to the personal agendas of political elites. This leads to an environment where institutions can either be manipulated or intentionally weakened, leading to the erosion of legal principles. The Nigerian judiciary, in particular, has often been seen as susceptible to the sway of political elites, compromising its ability to function as an unbiased dispenser of justice. This issue is illustrated by Adeniyi (2011), who pointed out how the Attorney General of the Federation, Mr. Michael Kaase Aondokaa (SAN), secretly protected former Delta State Governor, Chief James Ibori, from prosecution in both Nigeria and the UK. This action contradicted the rule of law ideals promoted by President Umaru Musa Yar'Adua and highlights the impact of political interference in judicial matters. Further complicating the situation, it was alleged that Chief Ibori, a key financial backer of Yar'Adua's campaign, bragged to Nuhu Ribadu, the then Chairman of the Economic and Financial Crimes Commission (EFCC), that he would soon neutralize Ribadu's efforts to prosecute him. Such examples underscore the extent to which political pressure can shape judicial outcomes, weakening the judiciary's independence and impartiality. This kind of political manipulation not only damages the credibility of the judiciary but also erodes public confidence in legal institutions, which is vital for maintaining the rule of law and delivering justice. In addition, Justice Musa Dattijo Mohammed in his valedictory speech, bemoaned that heavy politicization of the judiciary and sectional interest has made public estimation of the sector and its officers to become "witheringly scornful and monstrously critical" (Ige, 2023). For instance, he

remarked that the judgment that enabled Ahmed Lawan, former Senate President to become the Yobe North Senatorial Candidate of APC in 2023 election and the Imo State governorship appeal that returned Hope Uzodinma as governor are cases that Nigerians had viewed with discontent. When political elites exert undue influence over the justice system, it undermines the integrity of the entire governance structure, weakening public trust and obstructing fair and equitable justice.

The executive branch in Nigeria has frequently faced criticism for bypassing institutional checks and balances, particularly through its flagrant disregard for court orders to further political objectives. Sobowale (2023) highlighted a case where a competent court had ordered the release of Nnamdi Kanu and instructed the Federal Government to pay damages. However, President Buhari and the Minister of Justice and Attorney-General of the Federation, Abubakar Malami, in an act of executive lawlessness, ignored the court order, as they have done on numerous occasions, thereby undermining the judiciary and rendering it ineffective.

Additionally, the executive's role in the appointment of judges and other judicial officers has been a major concern in terms of judicial independence. The appointment process can be manipulated to ensure that those selected are loyal to the executive rather than being impartial. While the executive is required to appoint individuals based on recommendations, they often exploit legal loopholes to prevent the appointment of candidates they do not favor, even if those candidates have been recommended. A notable example of this occurred in Rivers State when Governor Rotimi Chibuike Amaechi refused to appoint Hon. Justice D. Okocha as the Chief Judge of the state (Gwunireama, 2022). This discretionary power vested in the executive to appoint judicial officers creates a gap in Nigeria's legal framework and negatively impacts judicial autonomy. Moreover, the power of the executive to remove judicial officers further exacerbates the issue, raising questions about the true independence of the judiciary (Adangor, 2015). The practice of members of the executive offering material gifts to judges has raised significant public concern, being viewed as a recurring and troubling issue that undermines judicial independence. Nigerian human rights activist and lawyer Chidi Odinkalu shed light on this phenomenon, describing it as a pattern of entrapment within the judiciary orchestrated by political elites like Nyesom Wike. Odinkalu explained how Wike, leveraging his position as a



cabinet minister, established a system of influence through acts of generosity, transforming material gifts into subtle forms of control. According to Odinkalu, this relationship goes beyond mere financial transactions; it becomes deeply psychological, compelling judges to forfeit their independence and act as silent enforcers of political interests. This dynamic, he argued, results in an insidious allegiance, with judges feeling obligated to align their rulings with Wike's objectives (Odinkalu, 2024). Supporting this perspective, another human rights activist, Femi Falana, echoed similar concerns during an interview on Channels Television's program 'Politics Today'. Falana argued that it is highly inappropriate for members of the executive to offer gifts to judges, particularly when they have pending cases before the judiciary. He pointed out that Nyesom Wike, as the current FCT Minister, has cases across various court divisions, making it unethical for him to provide judges with cars or houses. Such actions, Falana asserted, could compromise the judiciary's impartiality and integrity (Umoru and Egwuata, 2024).

In response to these allegations, the FCT Minister dismissed claims that his actions could result in undue influence or allegiance. Wike defended the provision of residential accommodations for judges as part of a broader welfare initiative by the Tinubu administration, aimed at promoting the judiciary's independence and improving their working conditions. He argued that these measures were intended to enhance, rather than compromise, the autonomy of the judicial system. These instances highlight the broader challenge posed by the overwhelming influence of political elites, which significantly undermines the effectiveness of judicial institutions. The deliberate manipulation of these institutions for personal or political advantage compromises their independence and impairs their capacity to fulfill their constitutional mandates. This erosion of autonomy not only affects impartiality in judicial decisions but also diminishes public trust in the judiciary's role as a fair arbiter of justice.

## 2.2 Theoretical Framework

To provide a scientific foundation for this study, the researcher adopted Power Theory as the theoretical framework to analyze the impact of elite dominance and weak institutions on the judiciary in Nigeria. Power Theory, particularly as articulated by Michel Foucault (1980), offers a nuanced understanding of how power operates and is exercised within society. According to Foucault, power is not merely a commodity held by

individuals but is instead diffused across various institutions and practices, influencing societal structures and behaviors. This theory provides a lens to examine the concentration of power among elites and its implications for institutional processes. In contexts like Nigeria, where power is disproportionately centralized, Foucault's framework illustrates how such dominance can distort the proper functioning of institutions, including the judiciary. The theory highlights how elite control often results in institutional manipulation, undermining frameworks meant to uphold transparency, accountability, and good governance. These distortions pave the way for a judiciary that, rather than serving the public interest, becomes an instrument for advancing the personal and political agendas of the powerful.

Power Theory further underscores the weakening of institutional mechanisms in environments dominated by elites. This dynamic is evident in Nigeria through several issues, including the judiciary's compromised independence, corruption, and inefficiencies in public service delivery. For example, excessive influence by political elites often leads to judicial systems unable to enforce laws effectively or resolve conflicting court cases impartially. These issues erode public trust and hinder the judiciary's ability to serve as a check on abuses of power. Consequently, the lack of robust institutional strength undermines reforms and perpetuates systemic inefficiencies, making the judiciary less effective in fulfilling its mandate of promoting justice and the rule of law.

By employing these theoretical perspectives, this study aims to investigate how the imbalance between elite dominance and institutional weakness impacts the judiciary in Nigeria. It seeks to evaluate the extent to which elite control and frail institutional frameworks obstruct the development of an impartial judicial system. Additionally, the study endeavors to identify actionable strategies to mitigate these challenges. Balancing elite influence with a robust and independent judiciary is essential for fostering an environment that supports unbiased legal decisions and upholds the principles of justice and the rule of law.

## 3.1 Methodology

The study employed the documentary method for data collection, drawing from a variety of sources such as academic journals, textbooks, newspapers, conference papers, and official documents. These sources were instrumental in examining the impact of elite dominance and institutional weaknesses on the judiciary. The



research utilized qualitative data, which was analyzed through descriptive content analysis to provide an in-depth understanding of the issues under investigation.

#### 4.1 Evaluation of Research Questions

**4.1.1 Evaluation of Research Question 1: Does the politicization of Judges Appointment by the executive affect their legal decisions.** It is evident that the power to appoint inherently carries with it the power to regulate, influence, promote, demote, and even dismiss. Although the appointment of judicial officers is not solely within the prerogative of the President or Governor, as it is subject to the recommendation of the National Judicial Council (NJC), certain dynamics raise concerns about executive interference. Notably, the Chief Justice of Nigeria (CJN) and the Chief Judges of states, who lead the federal and state NJC respectively, are themselves appointees of the President and Governors. This structure raises questions about the NJC's independence from the executive. Eminue (2015) defines politics as "all those activities that are directly or indirectly associated with the seizure of state power; consolidation of state power; and the use of state power." By this definition, the appointment of judges is indirectly tied to the political elites' efforts to consolidate and exercise state power, creating opportunities for them to exploit the process to their advantage. For instance, while Justice Kudirat Kekere-Ekun was widely considered qualified for the position of CJN based on her seniority and legal record, her appointment was viewed by many Nigerians as politically motivated. Some speculated it was an attempt to secure a favorable second-term verdict for President Tinubu, while others believed her appointment might have been influenced by her perceived connections with Rabi'u Musa Kwankwaso, the NNPP presidential candidate in the 2023 elections.

In Imo State, some segments of the electorate still refer to Governor Hope Uzodinma as the "Supreme Court Governor," due to the controversial judgment that declared him the winner, despite initially being declared fourth by the Independent National Electoral Commission (INEC). The public's strong belief that Uzodinma should not have emerged victorious stems from the perception that the political and judicial systems were heavily influenced by the Buhari-led APC, which was accused of trying to secure more states to consolidate its power for a second term. This suspicion has fueled doubts about the integrity of the legal process, with many Nigerians unable to

shake the belief that there may have been an exchange of favors, such as "brown envelopes," to ensure the success of the appeal. One such expression of this frustration came from prominent activist and journalist, Deji Adeyanju, who tweeted: "Hope Uzodinma of APC who came 4th with minimal votes declared winner of Supreme Court. What a regime!" (@adeyanjudeji, Twitter post, Jan 14, 2020).

Similarly, the judicial appointment process in Nigeria is often susceptible to manipulation, with the potential for the executive to appoint individuals who are loyal to their interests, rather than those who are truly qualified. Judicial appointments have, unfortunately, become more about loyalty than merit. For instance, Justice Dattijo Mohammed in his valedictory service remarked that Children, Spouses and Mistresses of judicial officers had comparative advantage over highly qualified Nigerians in the process of appointing judicial officers (Ige, 2023). While the executive is constitutionally required to appoint only those recommended, there are weaknesses in the law that allow the executive to block the appointment of recommended candidates who do not align with their preferences. A notable example of this occurred in Rivers State when Governor Rotimi Chibuike Amaechi refused to appoint Hon. Justice D. Okocha as Chief Judge, despite the recommendation. The discretionary power granted to the executive in the appointment of judicial officers creates a significant gap in Nigeria's legal framework, undermining judicial independence. Moreover, the executive's power to remove judicial officers further exacerbates this issue (Adangor, 2015). The frequent abuse of this power by the executive has posed a major challenge to judicial autonomy, raising concerns about the integrity and impartiality of the judiciary in Nigeria.

#### 4.1.2 Evaluation of Research Question II: How does generosity of material gifts from politicians to the judges enhance interest of the ruling class and weakened Judicial Independency in Nigeria?

To ensure judicial independence and autonomy, material gifts should be minimized as much as possible. Autonomy, in this context, means that items like cars, houses, and other gifts should be funded through the judiciary's own budget, not provided by external sources. As Femi Falana pointed out, judges' housing should be managed by the National Judicial Council (NJC), not the executive. Gifts from the executive, outside of the judiciary's independent budget, could easily be perceived as bribes. Chidi Odinkalu (2024), in his



paper titled "Wiked Judges and Nyesomized Courts", argued that what might initially seem like simple acts of goodwill—such as providing cars, houses, and other properties—can evolve into a deeper form of dependency. He further explained that Governor Nyesom Wike's calculated acts of generosity have fostered a culture of judicial loyalty, which he refers to as "Nyesomism." This term captures the extensive influence Wike wields, turning what was once a transactional gesture into an insidious allegiance, where judges feel compelled to align their decisions with Wike's political interests.

Several court rulings in the ongoing conflict between Governor Siminalayi Fubara and FCT Minister Nyesom Wike are widely seen as attempts to align judicial decisions with Wike's political interests, without addressing the core issue of party defection. For example, on October 10, 2024, the Court of Appeal annulled the Rivers 2024 budget (Agbo, 2024). Just 21 days later, the Federal High Court in Abuja issued an order halting Rivers State's allocation from the federation account (Abiodun, 2024). Justice Joyce Abdulmalik of the Abuja Federal High Court ruled that Governor Fubara's presentation of the 2024 budget to a four-member Rivers House of Assembly violated constitutional provisions. She condemned the receipt and disbursement of monthly allocations by Fubara since January as a constitutional violation that could not be allowed. The court issued an injunction, barring Fubara, the state's Accountant-General, and their agents from withdrawing funds from the state accounts at Zenith Bank and Access Bank until the budget was passed by the appropriate legislative body. Meanwhile, Wike's supporters, including Amawhule and twenty-six pro-Wike lawmakers, celebrated the judgment, praising it for upholding the rule of law. However, Chief Anabs Sara-Igbe, a member of the Rivers State Elders Council and a founding spokesperson for the Pan Niger Delta Forum, criticized the judiciary. He argued that the judge had preemptively decided the case, disregarding proper judicial procedure, and suggested that the judiciary now had a moral responsibility to restore its credibility (Agbo, 2024). "All she wanted was to issue a judgment that would serve vested interests, and she has delivered it." Similarly, a coalition of opposition lawmakers in the House of Representatives, led by Ikenga Ugochinyere, argued that the judgment was poorly conceived, especially considering that the cases involving 27 lawmakers loyal to Wike, who defected to the APC, were still pending before both

the Appeal and Supreme Courts. This subtle allegiance undermines judicial independence, replacing it with a system of dependence in which judicial decisions are influenced not by impartiality, but by an unspoken obligation. As a result, rulings become symbols of quiet loyalty, rather than objective legal outcomes. Furthermore, some policies formulated by the judiciary for effective justice delivery require approval from the President or Governor, who head the Executive branch, before they can be implemented. For example, the Multi-Door Court system initiated by the Rivers State Judiciary had to be approved by the Governor. This power of approval allows the Executive to assess the potential impact of such policies and decide whether or not to approve them, thus enabling the Executive to interfere with the judiciary's independence in Nigeria.

#### **4.2 Discussion of Findings**

The results of this research underscore that both the political manipulation of judicial appointments and the material largesse from political actors significantly undermine judicial independence in Nigeria. Although judicial appointments are nominally guided by the recommendations of the National Judicial Council (NJC), they are often shaped by political considerations. The appointment process is inherently vulnerable to political interference, as key positions within the NJC, including the Chief Justice of Nigeria (CJN) and Chief Judges at the state level, are appointed by the executive. This arrangement creates a conflict of interest that weakens the autonomy of the judiciary. As Eminue (2015) observes, political elites frequently exploit judicial appointments to fortify state power, and these appointments are often based on political loyalty rather than professional qualifications. An illustrative case is the appointment of Justice Kudirat Kekere-Ekun, which many viewed as politically motivated, with speculations suggesting it was part of efforts to secure favorable judicial outcomes for President Tinubu as second term ambition is already gathering momentum. Additionally, the judgment that enabled Ahmed Lawan, former Senate President to become Yobe North Senatorial Candidate of All Progressive Congress (APC) in 2023 election and the contentious 2020 Supreme Court decision that declared Governor Hope Uzodinma the winner of the Imo State gubernatorial election—despite initial reports placing him fourth—exemplifies how judicial rulings can be seen as politically influenced, fueling public skepticism about the integrity of the



judicial process. Furthermore, the executive's discretionary authority to block or delay judicial appointments exacerbates the erosion of judicial independence. A notable instance of this occurred in Rivers State, where Governor Rotimi Amaechi refused to appoint Hon. Justice D. Okocha as Chief Judge, despite the NJC's recommendation, highlighting the extent to which the executive can manipulate judicial appointments to serve partisan interests.

The study also reveals that the material largesse provided by political figures, such as gifts of cars, houses, and other privileges, plays a significant role in diminishing judicial independence. While such gestures may initially be perceived as benign or charitable, they often serve as instruments of political control, fostering a system of dependency in which judges feel obliged to align their rulings with the interests of those who provide these gifts. Chidi Odinkalu (2024) refers to this practice as the cultivation of a loyalty culture, which is exemplified by Nyesom Wike's actions in Rivers State. His provision of material gifts to judges has contributed to an environment where judicial decisions appear to be influenced by his political objectives rather than grounded in impartial legal reasoning. This is evident in the ongoing legal disputes between Governor Siminalayi Fubara and Wike, where decisions, such as the annulment of the Rivers 2024 budget, are seen by critics as politically motivated. These rulings, which tend to align with Wike's interests, have raised concerns regarding the impartiality of the judiciary. While supporters argue that these decisions are in line with the rule of law, others perceive them as indicative of a judiciary that is overly beholden to the ruling political elite, thereby undermining its credibility.

#### 4.3 Conclusion

The study concluded that the disproportionate influence of political elites and the resulting imbalance of power pose significant obstacles to the development of a strong, autonomous, and independent judiciary. It was found that when power is concentrated in the hands of a few influential individuals, it severely weakens the institutional structures necessary for ensuring impartiality, transparency, and fair legal decision-making. In Nigeria, this concentration of power leads to the erosion of institutional integrity and disrupts judicial processes. Institutions that are meant to uphold democratic values, enforce laws, and provide justice for the common citizen become compromised when manipulated by political elites

for personal gain. This manipulation results in conflicting and controversial court rulings, creating tension and damaging the country's reputation both domestically and internationally.

#### 4.4 Recommendation

##### i. Procedure for Appointment of Judges

To improve judicial appointments, the process should be transparent and publicly accessible. All judicial vacancies should be widely advertised, and a mandatory written examination should be introduced for candidates, tailored to judicial needs. For higher courts, candidates can submit written work instead of taking the exam. Successful candidates should be shortlisted, with the final list containing at least twice the number of judges to be appointed. Standardized procedures for vetting candidates and consistent reporting formats from law enforcement agencies should also be established.

##### ii. Confidential Restitution by Judges

Judges should be provided with the opportunity to discreetly return any benefits, favors, or support they previously accepted, effectively severing both symbolic and practical connections to past compromises. This act of restitution, whether handled privately or through judicial channels, would allow judges to confront the moral implications of their prior decisions and alleviate the guilt that has impaired their impartiality. By reclaiming their autonomy, judges would free themselves from the lingering influence of political elites' "generosity," thus restoring their ability to administer justice objectively and without political bias.

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