

THE ROLE OF JUDGES IN THE ELECTION PROCESS*

Abstract

Election has been universally acclaimed as a process of choosing representatives by popular vote by the people in a democratic society. It is one of the attributes of democracy. Election in Nigeria is conducted by an independent Electoral body, Independent National Electoral Commission (INEC) which is expected to carry out its statutory duties in compliance with the constitution and other enactments and, at the end of the Election process declare a winner in the Election. All contestants in the Election have the constitutional right to ventilate their grievance against the conduct of the Election in the Court or Election Tribunal and the judgment of the Court or Tribunal is binding on all the parties, including INEC. This Paper examines on the Role of Judges in the Election process and the numerous factors which obstruct the Judges in the discharge of their roles in Election matters. It is the findings that the Judges are not adequately discharging their roles in Election matters hence there is no justice and fairness with the resultant lack of confidence by the citizenry on the Courts / Election Tribunals handling Election matters. In conclusion the work recommends that

Keywords: Democracy, Election Petition, INEC, Judge

1.0. INTRODUCTION

Democracy which has been affirmed as the best form of government in the world, no doubt is a government made up of the generality or representatives of the people. It allows the people to participate in the government by choosing their leaders. Such leaders are chosen in regular and periodic Elections which is one of its attributes. These Elections enable the citizens to appraise the performances of their leaders, re-elect them for another term if they have performed well or reject them and choose new leader if in the contrary.

"The Election must not only be free, fair and credible, but also in substantial compliance with the 1999 Constitution of Nigeria as amended and the Electoral Act 2010 as amended. The citizens are expected to freely, without undue influence and intimidation of any type, choose their leaders. The political parties which have the unalloyed and right to present candidates for the Election are expected to do same also in accordance with the Constitution. They must present those who are qualified for the offices and the selection of the candidates must also be in accordance with the Electoral Act. The Electoral Umpire, Independent National Electoral Commission (INEC) which is constitutionally saddled with the responsibility of preparation and conduct of the Electoral process should also exhibit high level of transparency and neutrality in the discharge of this responsibility¹.

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¹ Buhari v. Obasanjo (2005) 19 WRN 1 per Abdullah! PCA at Pp. 200-201.

The Election process definitely gives rise to disputes which may be Pre-Election in which case, the regular High Court, Federal High" Court, Court of Appeal and Supreme Court will have jurisdiction to hear and determine same² or it may be during the Election proper in which case the Election Tribunal,- Court of Appeal and Supreme Court will determine same³ depending however on the Elective office.

Over the years, the citizens have raised eyebrows or questioned the decisions of these Courts and Election Tribunals as regards the justice of their judgments⁴. They have questioned the integrity of the Judiciary for strengthening and sustaining the country's Electoral process and democracy and have expressed doubt that the Judiciary remains the last bastion of hope for the common man arguing that the Judiciary is not only corrupt, but deliver controversial judgments by which it indirectly participate and acquiesce in Election riggings⁵.

Many insinuations have been made by the citizens for such judgments which reasons are at divergent with substantial justice. For instance, in the Second Republic case of *Awolowo v. Shagari*⁶, where the issue was Two-third of Nineteen States, which the Supreme Court held to be Twelve and Two-third States with Kayode Eso, JSC (as then was) dissenting, it was rumored that the judgment was based on the fact that the then Head of State, Olusegun Obasanjo, wanted power to shift to the North. Also in *Ngige v. Obi*⁷ the citizens believed that the Tribunal nullified the Election of Chris Ngige because of the soured relationship between Chris Ngige and Chief Chris Ubah and the cordial relationship between Chris Ngige's arch -opponent, Chief Chris Ubah and the then President, Chief Olusegun Obasanjo.

Similarly, it has been argued that it is always difficult to win the candidate of a ruling Political Party in the Central / Federal government in Election matters in the Court or Tribunal. A pertinent question that arises is: what is the role of the/Judges in an Election process? Is It merely to uphold and declare the wishes of their Master / Appointer or to do justice which they are sworn to do? Furthermore, although our Superior Courts have stated that Election matters are *sui generis* which means that they are in a class of their own, unique or peculiar and also that technicalities should-be abhorred, in practice however, the reverse seems the case⁸.

In this paper, we shall discuss the Election process, the Court / Tribunal with jurisdiction to hear and determine Election matters, role of the Judges in the Election process, their

² Ss. 6; 46 233 (1), 240 of the 1999 Constitution as amended. See also Ss. 31 (5) and 87 (9) of the Electoral Act, 2010 as amended. See also the cases of *Ugwu v. Ararome* (2007) 31 WRN 1; *Amaechi v. INEC* (2008) 6 WRN 1 and *Kolawole v. Folusho* (2009) 50 WRN 68.

³ Ss. 233 (2) (e) and 285 of the 1 999 Constitution. See also S. 1 33 of the Electoral Act, 201 0.

⁴ . *The Legal Practitioners* (Continental Media Associates, Lagos) Vol. 1 No. 2 (1997) at Pp. 9-10.

⁵ Dr. C.J. Ubanyionwu: *Stabilizing Nigeria's Electoral Process through corrupt free and courageous Election Tribunals*, FBJ, Vol. 1, No. 1, 2015.

⁶ (1-979)6-9 SC 51.

⁷ (2006) 18 WRN 33.

⁸ *Amadi v. INEC* (2013) 23 WRN 1; *Ambode v. Agbaje* (2015) 36 WRN 135.

appointment, factors hindering Judges from discharging their roles and make recommendations that will guarantee more justice in Election litigations.

2:0. The Concept of Election Process

Election is the process of selecting a person to occupy an office usually a Public office⁹. It is a process whereby Voters / Electorates are periodically empowered to select their leaders. It is a process of choosing by popular votes a candidate for a political office in a democratic system of government.

In Nigeria, both the 1999 Constitution as amended and the Electoral Act 2010 as amended have made ample provisions for the mode of Elections for both State and Federal political offices. Election is a process that necessarily consists of several distinct parts or segments and" ends with the declaration or return by the Electoral body of the candidate that won the Election at the polls. It denotes a process constituting .accreditation, voting, collating of results, recording on all relevant Electoral forms and declaration of results¹⁰. The accreditation of voters by the Presiding officer before the voters cast their votes, collation of all results and the declaration of results are all important constituent elements of an Election.

The concept of Election can be extended to include the registration of voters prior to the Election¹¹which deal with registration of voters and offences relating to same¹². It therefore means that registration of voters falls within the activities and processes being regulated by the Electoral Act which is the law regulating the conduct of Elections in Nigeria.

Apart from registration of voters, delineation of constituencies, sponsorship and nomination of candidates, creation and designation of Polling booths and the nomination of candidates for the Election by the Political Parties form part of the Election process.

Muktar, JCA agreeing with the above view has asserted¹³:

Election being a process cannot be strait-jacketed into confining its meaning to only the "Polls" which is the actual casting of votes for the candidates. It necessarily includes such preliminary matter as sponsoring or nominating candidates for the Election which processes proceed the day of the Poll, The importance of these preliminary matters to the process of Election is not" farfetched. For instance, by S. 39 of the Electoral Act¹⁴, in the event that, there are no valid nominations at the close of the period laid down for nomination, the Electoral Commission shall extend the time for nomination and fix a new date for the Election. What this therefore means is that there can be no Election without nomination...

⁹ Black's Law Dictionary, 8th Ed, Edited by Bryan A. Garner (West Publishing Co, USA) at P. 557.

¹⁰ Salami PCA, in Favemi v. Oni (2010) 48 WRN 30 at P. 88.

¹¹ Ss. 9-24 of the Electoral Act, 2010 as amended

¹² See also S. 117 of the Electoral Act, 2010 which provides for offences in relation to registration of voters.

¹³ Sunday v. INEC (2008) 33 WRN 141 at P. 167.

¹⁴ Now S. 38 of Electoral Act, 2010 as amended

Therefore, an Election includes but is not limited to Polls. I am of the view that Election as a process cannot be divorced from the preliminary matters of sponsorship and nomination, just as Polls, declaration of results and the issuance of Certificate are an integral part of the process. They are all part of a whole.

From the above, it will be correct to assert that Election process connotes registration of voters, creation and designation of constituencies and polling booths, sponsorship and nomination of candidates by Political Parties, accreditation of voters, voting, collating of results, and recording of results, declaration of results and issuance of Certificates of return to winners of the Election.

3:0. ELECTION AND THE COURTS

Election process is broadly divided into two (2) namely: Preliminary matters, that is, issues prior to the day of Election or Poll which are called Pre - election matters and issues that occur on the day of the Election / Poll called Election matters. By virtue of our Constitution and the Electoral Act 2010¹⁵, different Courts and Tribunals have jurisdiction over matters arising from each of the segments of the Election process.

3:1 Pre - Election Matters

Pre - Election matters are the preliminary processes leading to and prior to the Poll or actual voting. They include matters -relating to registration of voters, nomination, selection, disqualification or substitution of a candidate for the Election. The Federal High Court, State High Court or High Court of Federal Capital Territory has exclusive jurisdiction -to hear and determine pre-election matters. Thus where an aspirant complains that his Political Party has not complied with the provisions of the Electoral Act in the choice or selection of a candidate for an Election, the aspirant can ventilate his grievance in the High Court, Federal or State and not the Election Tribunal.¹⁶ Similarly disputes as to the authentic candidate of the Political Party are also for the same Courts.

Furthermore, during the nomination of candidates by Political Parties, any person who has reasonable grounds to believe that any information given by a candidate in the affidavit or any document submitted by the candidate is false may file a suit at the Federal or State High Court against such candidate seeking a declaration that the information contained in the affidavit or document is false.¹⁷

Moreover, where a candidate has been wrongly substituted by his Political Party, the issue is a Pre - Election matter and a Judge of the High Court has jurisdiction over same.¹⁸ Compilation

¹⁵ See Ss. 239 (1) & 246 (3) of the 1999 Constitution as amended and Ss. 87 (9) and 133 (1) of the Electoral Act, 2010 as amended.

¹⁶ S. 87 (9) of the Electoral Act-2010-as amended.

¹⁷ S. 31(5) of the Electoral Act, 2010 as amended

¹⁸ See the cases of: Uqwu v. Ararume (2007) 31 WRN 1; Amaechi v. I NEC (2008) 10 WRN 1 and Pam v. Mohammed (2008) 40 WRISL67.

of the voters register by the Electoral body, INEC prior to the Election is a Pre - Election matter as same predates an Election¹⁹. However a distinction must be drawn between the compilation of voters register and the use of the said register in an Election. While the former is an act done prior to the conduct of the Election, the latter is an act contemporaneous with the conduct of the Election. The compilation of voters register is a Pre - Election matter over which the High Court has jurisdiction, but the use of the said voters register in an Election is an Election matter over which the High Court has no jurisdiction.²⁰

In all Pre - Election matters, the case commences in the High Court, appealed to the Court of Appeal and terminates at the Supreme Court which is the Apex Court, of the land²¹. In *Opara v. Amadi*,²² the Supreme Court in affirming its jurisdiction to entertain a Pre - Election matter stated:

The dispute in *PDP v. Onwe* is an intra party Pre-Election matter which has nothing to do with Elections. Tribunals have no jurisdiction over such matter. Being a Pre-Election matter, only the Federal High Court and State High Court has jurisdiction. (See S. 87 (9) of the Electoral Act, 2011) and the judgment of Supreme Court is final in such Pre - Election matters of selection or nomination of a candidate of a Political Party.

Pre - Election matters are mainly intra party disputes as to which of the candidates a Political Party can validly nominate to, represent it in an election. It always throw up the issue as to which of the candidates of the same party that actually won the questioned Election or was the proper or qualified candidate of the party in the said Election. Although the issue of nomination and / or sponsorship of a candidate for an Election falls within the domestic affairs of a Political Party being regulated by the party's constitution, but same must be done pursuant to the Electoral Act as any dissatisfied contestant in the said Primary Election of the party can ventilate his complaint before the High Court if the said Primary Election of the party was done in breach of the party's constitution or guidelines and the Electoral Act.²³ However it is only a member who contested in the said Primary Election that has the right to challenge the nomination of the Political Party.²⁴ Furthermore, Pre - Election matters being not suited for Election Petitions cannot be determined by Election Tribunal as same has no jurisdiction over it²⁵.

It must be stated that a Pre-Election matter should be taken to Court before the actual Election takes place as the High Court may lose its jurisdiction on the issue after the Election. Thus any allegation on Pre - Election matters like allegations on compilation of voters register should be presented to the High Court before the Election. However where the allegation is raised after

¹⁹ *Akeredolu v. Mimiko* (2014) 1 WRN 1.

²⁰ *Akeredolu v. Mimiko* (Supra) at Pp. 33 - 34.

²¹ *Dinqyadiv. INEC* (2011) 40 WRN V; *CPC v. Ombuqadu* (2013) 44 WRN 1.

²² (2013) 39 WRN 1 per Rhodes-Vivour/JSC at Pp. 20-21. *PDP v. Onwe* (2011) 21 WRN 1

²³ *Jey y lyortyom* (2014) 51 WRN 1

²⁴ *Kolciwole v. Folusho* (Supra).

²⁵ *APGAv. Ameke*(20'12)'7 WRN 91

the Election, the Election Tribunal and not the High Court will have jurisdiction over same. The Supreme Court affirming the view has asserted:

It follows that once the Election has taken place, the concerns over the voters' register can only be addressed not in isolation but within the purview of the fully completed electoral process in the given territory and the forum of adjudication is nowhere else at that point but the Election Tribunal where all the issues emanating, inclusive of the voters' register and the voting, collation and declaration of result are considered and a decision reached²⁶

3:2. Election Petition

An Election Petition is to challenge the return or declaration of the winner of the Election by the Electoral body. Before an Election Petition is presented, an Election must have taken place and the Electoral umpire, INEC, has declared the result and announced or returned a winner of the Election. A Petition is filed to contest the said Election and the .winner declared and the Election Tribunal is the appropriate Court for same. The S131 Electoral Act, 2010 as amended provides:

No Election and return at an Election under this Act shall be questioned in any manner other than by a Petition complaining of an undue Election or undue return (in this Act referred to as an "Election Petition") presented to the competent Tribunal or Court in accordance with the provisions of the Constitution or of this Act (2) In this part, "Tribunal or Court" means:

(a) In the case of Presidential Election, the Court of Appeal; and

(b) In the case of any other Elections under this Act, the Election Tribunal established under the Constitution or by this Act."²⁷

The above provisions recognize the Election Tribunal as the only Court vested with jurisdiction to hear and determine Election Petitions. While the Court of Appeal is the Court of first instance for Presidential Election²⁸, the National and State Houses of Assembly Election Tribunal and the Governorship Election Tribunal are the Courts of first instance for Petitions of Legislative and Governorship Elections respectively.

Both the Presidential Election and Governorship Election Petitions terminate at the Supreme Court, while that of the Legislature ends in the Court of Appeal.²⁹ The Supreme Court has no jurisdiction over Legislative Election Petition. The Court affirmed so in *Madumere v. Okwara*³⁰ thus:

In the circumstance, it is demonstratively clear that the appellants have no right of appeal to this Court neither has this Court the jurisdiction to entertain any appeal against the decision of the Court of Appeal on National

²⁶ *Akeredolu v. Mimiko* (Supra) per Peter – Odili, JSC at P. 68.

²⁷ See also the case of *APGA v. Anyanwu* (2014) 14 WRN 1.

²⁸ S. 239 (1) of the 1999 Constitution as amended,

²⁹ S. 246 (3) of the 1999 Constitution as amended.

³⁰ (2013) 40 WRN 51 at P. 80 per Onnoghen JSC. See also *Opara v. Amadi* (Supra); *Dangana v. Usman* (2012) All FWLR (Pt. 67) 612 and *Kolawole v. Folusho* (Supra).

and State Houses of Assembly Election Petition as that Court is by Constitutional provisions, the last Bus stop in the matter.

The process of challenging an Election is through the Election Petition which will be filed before the relevant Election Tribunal. Election Petition is a complaint of undue return or undue Election brought by a candidate that lost an Election against the winning candidate pursuant to the constitution and the Electoral Act.³¹ The person elected or returned or whose election is complained of must "be made a party and the Respondent in the said Petition"³². Also where the Petitioner complains of the conduct of- the Electoral body, its Electoral Officer, a Presiding or Returning Officer, the Electoral body and not "any of those its Officers shall be joined as a Respondent. It is not necessary and mandatory to join such Officers of the commission notwithstanding the nature of the complaint or allegation against such Officer. It is sufficient to make the Electoral body a Respondent which will now defend the Petition for itself and on behalf of such its Officers."³³

The Petitioner may question the said Election on any of these grounds namely:

- a) That a person whose Election is questioned was at the time of the Election, not qualified to contest the Election.
- b) That the Election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act.
- c) That the Respondent was not duly elected by majority of lawful votes cast at the Election; or
- d) That the Petitioner or its candidates was validly nominated but was unlawfully excluded from the Election.³⁴

Most Petitions have been pursuant to S. 138 (1) (b) of the Electoral Act, 2010 as amended which seeks to invalidate an Election on ground of corrupt practices or non-compliance with the provisions of the Electoral Act during the said Election. The Courts have held that the Petitioner in such situation must prove not only that there was non-compliance with the provisions of the Electoral Act, but also that the non-compliance substantially affected the result of the Election and the Petitioner must adduce evidence in this regard.³⁵

Where the Petitioner makes allegation of Election malpractices, he also has the onus to prove the said allegation and that in the absence of such malpractices he would have won the Election. In all allegations of corrupt practices and Election malpractices, the Petitioner must prove the allegation beyond reasonable doubt. Such allegations on corrupt practices, Electoral

³¹ Ayantola v. Action Congress (2009) 18 WRN 141.

³² S. 137 (2) of the Electoral Act 2010 as amended

³³ S. 137 (3) of the Electoral Act 2010 as amended.

³⁴ S.138 (1) of the Electoral Act 2010 as amended. See also S. 134 (1) of the Electoral Act, 2002.-: now repealed and S. 145 (1) of the Electoral Act 2006 also repealed which are in pari material with S. 138 (1) of the 2010 Act. See also the cases of: Buhari v. Obasanjo (2005) 50 WRN 1; Abubakar v. Yar'Adua (2009) 5 WRN 1; Falae v. Obasanjo (No.2) (1999) 4 NWLR (Pt. 599) 89.

³⁵ Buhari v. Obasanjo (Supra); Falae v. Obasanjo (Supra); Obi - Odu v. Duke (2006) 21 WRN 113 and Nqige v. Obi (Supra).

malpractices, thuggery, etc must link the Respondent and show that he personally did same or authorized or ratified same.³⁶

In respect of S. 138 (1) (d) of the Electoral Act 2010 as amended where an Election may be questioned on the ground that the Petitioner or its candidate was validly nominated but was unlawfully excluded from the said Election, the Petitioner must show the following:

- i. That he was validly nominated by his political party.
- ii. That an Election was conducted,
- iii. That a winner was declared and
- iv. That his name was not included in the list of the contestants.³⁷

In *Sunday v. INEC*,³⁸ the Petitioner was duly nominated by his political party to contest for the Lagos State House of Assembly Election and his name, was duly published by INEC as the candidate for the said Election. However, on the polling day, while Election was in progress, it was discovered that the Petitioner's party's logo, emblem and / or acronym were omitted from the ballot papers being used for the said Election. The Petitioner thereafter brought a Petition before the Governorship and Legislative Houses Election-Tribunal.

The Court of Appeal held that the Petitioner was unlawfully excluded from the Election and that he has the locus standi to bring the Petition.

It must however be noted that where a Petitioner alleges that he was validly nominated but was unlawfully excluded from the Election and also pleaded other grounds in his Petition, he may be estopped from raising other grounds as he cannot be heard to complain of what happened in an Election when he was not a participant therein. As Musdapher, JSC stated:

*Where a Petitioner relies on a ground of unlawful exclusion to contest the Elections, he is statutorily stopped from raising or relying on any other grounds in S. 145 (1) (a), (b) or (c).*³⁹

It must also be noted that the ground of a Petition should not go outside the grounds stated in S. 138 (1) of the Electoral Act, 2010 as amended. Any ground of a Petition that orbits outside the canvass of those provided in the said section is bound to crash and be struck out by the Election Petition Tribunal.⁴⁰

Judges preside over Pre - Election matters in the Courts and the Election Tribunals. Such Judges are expected to perform their constitutional and moral role of dispensing justice in accordance with the law and without fear or favour.

³⁶ Buhariy. Obasanjo (Supra); Falae v. Obasanjo (Supra); Obi - Odu v. Duke (Supra) and Ngige v. Obi (Supra).

³⁷ Abubakar v. Yar'Adua (Supra); Sunday v. INEC (2008) 33 WRN J4I.

³⁸ (Supra)

³⁹ Abubakar v. Yar' Adua (Supra) at P. 170. S. 145 (1) (a) (b) (c) is now S. 138 (1) (a) (b) (c) of the Electoral Act 2010 as amended.

⁴⁰ Avantola v. Action Congress (Supra).

4:0. APPOINTING THE JUDGES FOR ELECTION PROCESS

A Judge is a Public Officer appointed by: the Government to adjudicate on cases filed in the Law Court and presented to him. He is a Public Officer who has authority to hear and determine cases in a Law Court. He has authority and power to administer the law, preside over trials and render judgment or make legal decisions in such matters pending before him, such authority being derived from the constitution and other enactments⁴¹. His decisions in such matters are binding on the disputants.

In Election matters, the Judge has a role in both the regular Court and the Election Tribunal to hear and determine Election matters depending on if it is a Pre - Election or Poll matter⁴². In all, the Judge is an unbiased and impartial umpire constitutionally and statutorily empowered to dispense justice to the parties in the cases pending before him without fear, favour or ill-wills. How effective or efficient he is in discharging the duties of his office in the Election process is another thing altogether. The office of a Judge calls for a very high sense of duty, commitment, great intellect, responsibility, integrity, probity and transparency. Justice M.M.A. Akanbi, PCA (as then was) eloquently and brilliantly asserted:

For a dishonest or corrupt Judge, or a Judge with little or no learning, can be a most dangerous clog in the administration of justice. Secondly, is the dangerous and mischievous Judge who knows the law but prefers not to follow the law. He acts on whims and caprices. He assumes jurisdiction where there is none. He declines jurisdiction where there is. To him judicial precedence means nothing. His motive is dangerous. His wig and gown are mere symbols of his ego. Again to this class of Judges, the judicial oath is a mere cosmetic. Such a Judge is not only an obstacle to justice according to law, he is a danger to the entire judiciary as an institution. Thirdly, is-the ignorant Judge who is a problematic Judge, and can be an obstacle to justice according to law.....The consequences of his actions may spell havoc to the judiciary⁴³

The Judges who sit in the Courts⁴⁴ vested with jurisdiction to hear and determine Pre-Election matters are appointed to those Courts by different authorities depending on if the Courts are State or Federal, but the common authority in both of them is the National Judicial Council. While the Governor of a State appoints the Judges of the High Court of the State on the recommendation of the National Judicial Council⁴⁵, the President has the authority to appoint Judges of all the Federal Courts on the recommendation of the National Judicial Council⁴⁶. It is only in the appointment of the Heads of the Federal Courts and Judges of the Supreme Court that the appointment will be subject to confirmation by the Senate.⁴⁷

⁴¹ . Ss. 6, 46, 233 (1), 240 and 241 of the 1999 Constitution as amended. See also Ss. 31 (5) and 87 (9) of the Electoral Act, 2010 as amended.

⁴² Ss. 233 (2) (e), 239 (1) and 285 of the 1999 Constitution as amended.

⁴³ Justice M.M.A. Akanbi: The Judiciary and the challenges of justice, 1996 at Pp. 42 - 43 cited with approval by Saulawa, JGA in Prosper v. State (2014) 51 WRN 159 at P. 191.

⁴⁴ State High Court, Federal High Court, Court of Appeal and Supreme Court

⁴⁵ Ss. 271 (2) of 1999 Constitution as amended.

⁴⁶ Ss. 238 (2) and 250 (2) of 1999 Constitution.

⁴⁷ Ss. 231 (1) (2), 238 (1) and 250 (1):of 1999 Constitution

The above shows that it is the prerogative of the Governor of the State and the President to appoint the Judges on recommendation of the National Judicial Council. It is even possible and feasible for the Governor or President to pick candidates who he personally likes and believes will do his biddings from the list of recommended candidates while jettisoning others. He can also easily rely on availability of fund to exercise this discretion after all he is not bound to appoint all candidates recommended to him by the National Judicial Council. What he must not do is to appoint outside the recommended list. This shows that the Governor or President can appoint mainly those who will be their mouthpiece and not do justice.

The composition of the National Judicial Council which plays a vital and pivotal role in the appointment of Judges is worthy of mention here. Of the membership strength of 23, the Chief Justice of Nigeria appoints 20 of them into the Council. Although the Chief Justice of Nigeria is always a man / woman of integrity, high repute and high moral standard, but all mortals are fallible. There is great danger that the Appointees will do his biddings sometimes at the detriment of justice. No wonder, it is a general belief among the citizenry that the best hands are not appointed into the bench.

For the Election Tribunals, the Judges appointed therein are there at the behest and grace of the President of the Court of Appeal who has the constitutional power to appoint although he has to do same in consultation with the Chief Judge of the State, the Grand Khadi of the Sharia Court of Appeal or the President of the Customary Court of Appeal of the State⁴⁸. He constitutes the Election Petition Tribunals and appoints Judges therein. In *Buhari v. INEC*.⁴⁹ the Court stated:

The Panel hearing this Petition was constituted pursuant to the powers conferred on the President of the Court of Appeal under Section 285 of the 1999 Constitution. The power of the President of the Court of Appeal to set up the various Election Petitions Tribunals is derived from the 1999 Constitution...

Apart from constituting the various Election Petition Tribunals in the Country, the President of the Court of Appeal can fuse together Governorship Election Tribunals with National and State Legislative Election Tribunals into one Tribunal for administrative convenience and quick dispensation of justice.⁵⁰

The effect is that only the President of the Court of Appeal has the unlimited power to constitute Election Petitions Tribunals in Nigeria. He, no doubt, wields so much power and such powers may sometimes corrupt him for absolute power corrupts absolutely. Judges serving in the Election Petitions Tribunals are definitely under him. He can "hire and fire" disband and reconstitute a Tribunal at will. And because of the lucre of office of the Judges of the Election Tribunals, all Judges serving therein will be at the service of the said President of the Court of Appeal and be willing to do his biddings lest: he removes them from the Tribunal, he can

⁴⁸ S. 285 and 6th Schedule of 1999 Constitution as amended

⁴⁹ (2008) 18 WRN 36 at Pp. 74 - 75 per Fabiyi JCA (as then was).

⁵⁰ *Ndavako v. Mohammed* (2007) 32 WRN 176 at 199 per Rhodes-Vivour JCA (as then was).

appoint Judges who will be willing tools in his hands to accomplish his desires. The case of Ayo Salami PCA (as then was) readily comes to mind. Apart from the allegation that he was bribed to judicially deliver Ekiti and Osun States Governorship Election Petitions to the then Action Congress (AC) through the instrumentality of Election Petitions Tribunals, he also rejected an offer of elevation as a Judge of the Supreme Court and had to enter into open altercation with the then Chief Justice of Nigeria who through the National Judicial Council and the President suspended him from office. The refusal of the then President of the Court of Appeal to accept a higher judicial promotion to the Supreme Court may no doubt be based on powers he was exercising in constituting the Election Tribunals and appointing Judges therein. Coupled with the above is the moral question on the appropriateness of the Election Tribunals constituted by the President of the Court of Appeal who was appointed by the President of the country hearing and entertaining Election Petition against the same President. Is it not a case of *Nemo Judex in causa sua*, one being a Judge in his own case? It is most likely that such Election Tribunal will definitely favour its appointer for he who pays the piper, dictates the tune.

In all cases, there must not be reasonable suspicious of bias or a real likelihood of bias. In considering whether there is a real likelihood of bias, the Court does not look at the mind of the Judge or whoever it may be who sits in the judicial capacity. It does not look to see if there was real likelihood that he would, or did, in fact favour one side at the expense of the other. The Court looks at the impression which would be given to the other people. Justice must be rooted in confidence and confidence is destroyed when right-minded people go away thinking: "That judge was bias"

5:0. Role of Judges in the Election Process

1. The primary-duty of the Judge is to do justice in the matter before him without fear or favour, affection or ill-will. His main duty is to do justice to the parties. As the master of the Court, the law requires the Judge to do the correct thing towards the attainment of justice in all cases before him. His decisions will be just, fair and even for all parties.

In the words of Lord Denning MR;

My root belief is that the proper role of a Judge is to do justice between the parties before him. If there is any rule of law which impairs the doing of justice, then it is the province of the Judge to do all he legitimately can do to avoid that rule or even to change it - so as to do justice in the instant case before him. He need not wait for the legislature to intervene, because that can never be of any help in the instant case.⁵¹

2. The Judge is not only to do justice, but substantial justice. Election Petitions are by their nature sui generis and peculiar from the point of view of public policy. It is the duty of the Judge to endeavour to hear them without allowing technicalities to unduly fetter his

⁵¹ Lord Denning: Family Story at P. 174 cited by Niki Tobi JSC in Pam v. Mohammed (Supra) at P. 137 and Inakoju v. Adeleke (2008) 30 WRN 1 at P. 173

jurisdiction. The Judge should be more concerned in doing justice rather than giving undue prominence to technicalities. He should be more interested in substance than in mere form of a matter for justice can only be done if the substance of the matter is examined.⁵²

3. The Judge in all situations and at all times must keep his mind on the goal post in Election Petitions which is the attainment of substantial justice. Anything contrary to this would surely disappoint the electorate who voted on the polling day with a view to putting who they feel would best actualize the dream of democracy which is the greatest good of the greatest number. The Court as the last hope of the common man must through the Judge uphold the confidence of the electorate in the ballot box by being just and fair to all parties before him.
4. Furthermore, the Judge has a duty to speedily dispose Election Petitions so as to serve the interest of justice. The terms of elected officials are limited hence time is of utmost essence. A situation whereby a legislator that has a Four year term spent Three years of such term in Election Petition Tribunal seeking to regain his lost mandate and has only one year to reap the fruit of his victory is not ideal and commendable. The losing opponent has, no doubt, benefitted more than him. The Judge must therefore act fast to ensure that the just and eventual Winner is not the loser after all.⁵³
5. The Judge exists to do nothing other than justice in all dispute brought before him. To achieve this task, he must jettison anything that will stand in his way to dispense justice with clear manifestation. All human limitations or unforeseen circumstances which are not capable of overreaching must not be allowed to disturb him in the discharge of this fundamental duty.
6. The Judge must free himself of prejudice and partiality and so conduct himself in and out of Court so as to give no ground for doubting his ability and willingness to decide cases before him solely on legal and factual merits towards delivering an objective, independent and impartial judgment. His judgments should never be subjected to his whims and caprices, but must be in pursuance to the law.
7. The Judge must stand above board and maintain the confidence the parties in the matter repose on him. The confidence is destroyed when right-minded people seized of the facts of the case will go away and say that the Judex (Judge) doles out favour for consideration indiscriminately. The Judge must be firm, consistent and sanctified at all times in Election Petitions.

Aderemi JCA (as-then was) reaffirmed this role thus;

⁵² Nwobodo v. Onoh (1984) NSCC 1; State v. Gwonto (1983) 1 SCNLR 142; Ngige v. Obi (2006) 18 WRN 33.

⁵³ Nwankwo v. Attah (1999) 5 NWLR (Pt. 601) 134; Ojo v. INEC (2CT08) 42 WRIM 39; Ngige v. Obi (Supra) where the 1st Respondent who later became the eventual winner of the Election spent 35 months in Election Tribunals seeking to regain his mandate.

It (He) must remain sanctified all the time. The seat of justice cannot be said to remain clear if the Judex can blow hot and cold or "approbate and reprobate at the same time in the discharge of his duties. Like Caesar's wife a Judex must always stand above board. It is for the above that I respectfully disagree with the reasoning of the learned trial Judge in her conning to the conclusion that the proceedings before the Plaintiff / Respondent was not tainted with corruption."⁵⁴

6:0 Factors Hindering Judges from Performing Their Role

An Analyst recently asserted:

.....Nigeria's Election jurisprudence is far from where it should be. Election litigation is viewed suspiciously and many ordinary people believe that the outcome is not determined by the merit of the case but rather by clever and well connected senior lawyers who have built some network of collaboration with Judges determining outcomes outside the Courtrooms. Whatever the case, Nigeria's judiciary has in my view missed several historic moments that it could have risen to decisively resolve important matters in favour of the Nigerian people."⁵⁵

Another Commentator had opined that in Nigeria, some Judges have made judiciary handmaid of the Government while others have made the Nigerian Judiciary epitome of justice. Others have made their offices to express their ethnic prejudices."⁵⁶ He supported his argument with the Supreme Court decision that Two-thirds of 19 States; was 12 and Two-third "States,"⁵⁷ the Court of Appeal denying justice to Paul Unongo in Benue State and John Kadiya in Plateau "State in their respective Election Petitions in the Second Republic on the ground that they were time-barred and the activities of Justice Bassey Ikpeme who used her Court to scuttle the June 12, 1993 Presidential Election and the Third Republic with the injunction she gave to Association of Better Nigerians (ABN) restraining the then National Electoral Commission-(NEC) from conducting the said Presidential Election.

Yet another Analyst⁵⁸ has also stated that while the golden age of justice delivery system in Nigeria was between 1940 - 1980 in which era the dispensation of justice was fairly swift, the procedure for the determination of cases very certain and the constitutional structure of the nation fairly predictable, that the present era, that is, between 1981 till date sadly represents a period of decline and that the predictable age of justice delivery had all but disappeared owing to certain factors.

⁵⁴ Fasaye v. Bajulalye (2003) 41 WRN 33 at P. 52.

⁵⁵ A.B. Mahmoud, SAN: "The future of the Legal Profession and Democratic Development in Nigeria being a Convocation Lecture delivered at the 32nd Convocation Ceremony of Bayero University Kano, on April 22, 2016.

⁵⁶ The Legal Practitioners (Continental Media Associates, Lagos) Vol. 1 No. 2 (1997) at P. 15.

⁵⁷ Awolowo v. Shagari (Supra).

⁵⁸ J.B. Daudu SAN: "The Position of the Nigerian Bar Association on reforms in the Administration of justice in Nigeria" - being a paper presented in a Seminar on the Future of the Administration of Justice in Nigeria held at the National Judicial Institute, Abuja on 4th Feb. 2015

From the above, one can surmise that the factors that hinder the Judges from performing their roles include:

- a. The emergence of corruption in the Nigerian society on a grand scale.
- b. The decline in the quality of legal education with a corresponding decline in the quality of the Bench.
- c. A growth of cases of judicial misconduct, indiscretion, failure or refusal to follow judicial precedent.
- d. Corruption in the Bench.⁵⁹ This cankerworm was confirmed by no other person than the Head of Judiciary in Nigeria and the Chief Justice of Nigeria, Hon. Justice Mahmud Mohammed, when he affirmed:

May I start by observing that allegations about corrupt Judicial Officers and Staff now make headline news on a more frequent basis.-On the allegations, senior members of the ; Legal Profession are also being accused of allowing themselves to be used as conduit pipes for the corruption, in the 'Judiciary.-Although I will not behave like the proverbial-ostrich" and hide away from the reality that some Judges and Judicial Staff are indeed complicit in corrupt practices, however, I must assert that corruption within the Judiciary is only imbibed by a minute minority⁶⁰

Numerous cases of Judges being sanctioned by the National Judicial Council on allegations of improprieties confirm that corruption in the Judiciary is a major impediment to Election litigation in Nigeria. Recently, Two Judges were recommended for dismissal having been found wanting in the discharge of their duties. In 2003; Two Judges of the Appeal Court were also dismissed by the National Judicial Council. Between 2009 and 2014, a total of Sixty-Four Judges "were disciplined as appropriate" according to the Chief Justice of Nigeria, Mahmud Mohammed.⁶¹

A former President of the Nigerian Bar Association, Joseph Daudu, SAN has also lamented the corruption of the Judges in Election matters. In his words:

We are no doubt aware that some of our colleagues, including very senior Counsel, and at times eminent retired Judicial Officers, go about offering services as 'consultants' particularly in Election cases for incredible sums of money so as to act as conduits between his client and the Election Court.⁶²

- e. Appointment of unqualified and unfit people to the Bench.
- f. The enormous powers given to the President of Court of Appeal to constitute the Election Petition Tribunals and appoint Judges therein.

⁵⁹ J.B. Daudu SAN: Ibid.

⁶⁰ Hon. Justice Mahnriud -Mohammed: Opening Remarks at the NBA Anti-Corruption Commission Seminar on "The Fight against Corruption in Nigeria: the way forward" held at the Transcorp Hilton Hotel, Abuja on June 24, 2015.

⁶¹ The Punch,-Editorial,-Friday/August 12, 2016, Vol. 40, No. 21, 245 at P. 20.

⁶² The Punch: Ibid

- g. Interference of the different levels of Government in the appointment and promotion-of Judges.
- h. Composition of the National Judicial Council whose membership are appointed almost solely by the Chief Justice of Nigeria.
- i. Inconsistent and contradictory decisions of Courts of co-ordinate jurisdiction on the same subject-matter thereby embarrassing and confusing the public and denying the Parties before them of justice at the end. The unprofessional conducts of Justices Bassey Ikpeme of Abuja High Court, Dahiru Saleh, the then Chief Judge of F.C.T High Court and Moshood Olugbemi, of Lagos High Court in dishing out orders and counter-orders in respect of the 1993 Presidential Election come to mind. It is doubtful if any of the Judges could have been said to have discharged his duty in the case or have administered justice to the Parties in accordance with the law.

Also in the recent matter where Hon. Justice Abang of the Federal High Court Abuja gave an order voiding the Election of Governor Okezie Ikpeazu of Abia State on the ground of filing false tax documents and ordering INEC to immediately issue Certificate of Returns to the runner up in the Abia State POP Governorship Primary Election, Dr. Uche Ogar and that he be sworn in by the Chief Judge of Abia State as the new Governor. However, a Judge of Osisioma High Court which is a Court of co-ordinate jurisdiction with the Federal High Court, on Thursday, June 30, 2016 gave a counter order restraining the Chief Judge of Abia State and any other Judge from swearing in the said Dr. Uche Ogar until the hearing and determination of the substantive matter filed before the said High Court.⁶³

- j. Unprofessional: conducts and activities: of members of the Bar especially her senior members. The allegation of regular telephone calls a net text messages by Otunba Kunle Kalejaiye SAN, the Counsel to the then Governor Olagunsoye Oyinlola with the Judges of Osun State Governorship Election Tribunal when Rauf Aregbesola of the then Action Congress challenged the re-election of Governor Oyinlola is a good example. The Legal Practitioners Disciplinary Committee has adjudged the said conduct of the Learned Silk to be of infamous conduct contrary to Rules 1, 15, 30, 31, 34 and 55 of the Rules of Professional conduct in the Legal Profession, 2007 and punishable under S. 12 (1) of the Legal Practitioners Act as amended and has ordered that his name be struck out from the Roll of Legal Practitioners.⁶⁴
- k. Avalanche of Judges with judicial passivity or timorous souls in the Election Petition Tribunal and Courts who have refused to allow the law to grow thereby meting out injustice to the Parties before then. In the words of Lord Denning MR:

If you read the, great cases of Ashby v. White⁶⁵, Pasley v. Freeman⁶⁶ and Donoghue v, Stevenson⁶⁷, you will find that in each of them, the Judges were divided in opinions. On the one side there were the timorous souls who were

⁶³ Channels TV, News at 10 of Thursday June 30, 2016.

⁶⁴ Charge No: BB / LPDC / 115 NBA v: Kunle Kalejaiye, SAN - judgment delivered on May 21

⁶⁵ (1703) 1 KB 524

⁶⁶ (1789) T.R. 51.

⁶⁷ (1932) AC 562

*fearful of allowing a new cause of action. On the other side, there were ready to allow the bold spirits who were it if justice so required.*⁶⁸

- I. Too much reliance on technicalities. Our superior Courts of record and -Election Petition Tribunals seem to double-speak on the issue of technicalities. In one breath, they will declare that technical ties have been jettisoned for substantial justice⁶⁹, but in another, they will apply the same technicalities to deny a Petitioner of justice.

In *Ambode v. Agbaje*⁷⁰, the Court of Appeal stated:

Election Petitions are sui genesis. Any error no matter how slight in complying with the provisions Electoral Act is fatal to the Petition.

- a. Judges handling the Election matters are not adequately trained for Election matters and do not possess the requisite knowledge and expertise on same. The result is that they err on the side of the law and mete out injustice to the Parties and the Electorates who are denied of the choice of their leaders,

A careful analysis of the judgment of Hon. Justice Abang of the Federal High Court in the recent matter as stated earlier in this paper where the Honourable Judge upon voiding the Election of Governor Okezie Ikpeazu of Abia State on the ground of submission of false tax documents and ordering INEC to issue a Certificate of Returns to Dr. Uche Ogar who was a runner up in the primary Election of the Party and that he be immediately sworn in by the Chief Judge of the State was, with due respect, wrong and against the law.

S. 141 of the Electoral Act, 2010 as amended provides:

An Election Tribunal or Court shall not under any circumstance declare any person a winner at an Election in which such a person has not fully participate in all the stages of the said Election.

From the wordings of the above provisions, no aspirant or candidate can be declared the winner in any Federal or State Election in Nigeria unless such person participated fully in all the stages of the Election. This provision has nullified the authorities of *Amaechi v. INEC* (Supra).

The Supreme Court confirmed the above assertion in the case of *CPC v. Qmbugadu*⁷¹ when it held that:

By the above provision (S. 141 of the Electoral Act, 2010), the National Assembly has set aside the decision of this Court in Amaechi v. INEC

In other words, Parties do not contest, win or lose Election directly, they do so by the candidates they sponsored and before a person can be returned as elected by a Tribunal or Court, that person must have fully participated in all the stages of the Election, starting from nomination to the actual voting"

⁶⁸ (1951) 2 KB 164

⁶⁹ *Bello v. AG of Oyo State* (1986) 2 NSCC 1257; *Falobi v. Falobi* (2002) 30 WRN 50 and *INEC v. . Oshiomole* (2008) 48 WRN 24.

⁷⁰ (2015) 36 WRN 153 at P. 179. See also *Amadi v. INEC* (2013) 23 WRN 1. .

⁷¹ (2013)-44 WRN 1 at P. 50 per Ngwuta JSC.

Also in *Jev v. Iyortyom* (Supra), the 1st Respondent in 2011 contested the Primary Election under the then ACN. Although, he was declared the winner of the Primary Election, but his party submitted the name of the 1st Appellant who came second to INEC. In an action filed by the 1st Respondent challenging the nomination and submission of the name of the 1st Appellant, the Federal High Court held that the first Respondent was the authentic candidate of the party but regretted that he cannot be declared the winner of the General Election as he did not participate fully in all the stages of the Election. The Court ordered for a fresh Election with the name of the first Respondent as the candidate of the party. Both the Court of Appeal and the Supreme Court affirmed the decision.

The Supreme Court while adopting the above decision stated:

*The 1st Respondent cannot be ordered to be sworn in Immediately because Section 141 of the Electoral Act, 2010 (as amended) forbids such an order since the 1st Respondent did not participate in all stages of the Election.*⁷²

Flowing from the above, Dr. Uche Ogar contested the PDP Governorship Primary Election for Abia State with the Governor (Dr. Okezie Ikpeazu) who was later declared the winner and his name submitted to INEC as the party's candidate in the Governorship Election. Dr. Ogar's name was not submitted and he thus stopped there. He did not participate in the Governorship Election and therefore did not fully fulfill the provision of the said S. 141 of the Electoral Act and ought not to have been declared the Governor of Abia State by Hon. Justice Abang. The decision thus portrays the Honourable Judge, with due respect, as not being abreast of the law or have full knowledge of the Electoral law.

The same lack of adequate knowledge of the Electoral Law was recently exhibited by the Court of Appeal in respect of the 2015 Governorship Election of Kogi State decided by the Court on August 4, 2016. The All Progressives Congress has substituted Yahaya Bello as its Governorship candidate and retained James Faleke as its Deputy Governorship candidate following the death of its original Governorship candidate, Alhaji Abubakar Audu, after the conclusion of the first round of the Election. After the supplementary Election, INEC declared Yahaya Bello the winner of the Election.⁷³

In separate Petitions filed by James Faleke, the running' mate of the said winner, Wada Idris the candidate of POP in the said Election, the Labour Party and the African Democratic Congress which also contested the said Election challenging the declaration of Yahaya Beilo as the winner of the Election, the Court of Appeal dismissed the respective appeals. However in the appeal by Wada Idris of POP, Justice Ita George Mbaba dissented. He nullified the Election of Yahaya Bello and ordered INEC to conduct a fresh Election. He held that affirming Yahaya Bello by the Election Tribunal as duly elected failed to meet the mandatory requirement

⁷² *Jev v. Iyortyom* (Supra) per Okoro, JSC at P. 46.

⁷³ *The Punch*, Friday, August 5, 2016, Vol. 40, No. 21,240 at P. 14.

of S. 141 of the Electoral Act 2010 as amended which provides that a person who does not participate in all the stages of the Election should not be declared a winner in the said Election.⁷⁴ With due respect, the majority judgment which upheld the Election of Yahaya Bello is wrong in law. The judgment is in breach of the express provision of S. 141 of the Electoral Act. Yahaya Bello was substituted by APC after the first round of the Governorship Election upon the death of the original candidate. He was not a candidate in the first round of the said Election and by virtue of S. 141 of the Electoral Act ought not to have been declared as the winner having not participated in all the stages of the said Election. The appropriate order of the Court of Appeal would be to have ordered INEC to conduct a fresh Governorship Election with the name of Yahaya Bello as the candidate of APC.

It is our humble view that the dissenting judgment of Mbaba, JCA is the correct interpretation of the law and we wholly subscribe to same. Our view is rooted in S. 141 of the Electoral Act 2010 as amended and the cases of *Jev v. Iyortyom* (Supra) and *CPC v. Ombuqadu* (Supra).

7:0. CONCLUSION

Having examined Election process and the role of the Judges in the process both in the preliminary stage and during the actual Election and the inherent hindrances against them in the discharge of such role. Although Judges may be desirous of doing justice in Election matters before them, but some factors hinder or limit their efforts. These factors have also contributed to a general decline in justice delivery both in exposition of the law and dispensation of justice. The result is that Election matters before the Courts / Tribunals are predictable and one can easily say with certainty where the pendulum of justice will swing.

It is doubtful if the Judges are discharging the duties of their office in accordance with their Oath of office which is to do justice to all manner of persons in accordance with the law without fear or favour. Rumours of money exchanging hands between the parties and the Judges in Election matters or external influences on the Bench have tied the hands of the Judges and mortgaged justice. There is therefore need for solutions to the problems.

8:0. Recommendation

*Election matters are very sensitive as they are of paramount significance to all Parties concerned; the Electorate in particular who are directly involved, as well as the generality of the Nigerian populace.....By its very nature, the subject is that which ought to be treated with all utmost transparency, openness, honesty and seriousness.*⁷⁵

There is no doubt that Election is a serious and sensitive matter and is very important to the Electorate in particular who are expected to utilize the opportunity and choose their leaders and the entire nation in general who also benefit from the leadership activities of the leaders. It is therefore expected that the issue being of top priority, the process comprise and leading to

⁷⁴ The Punch, Ibid.

⁷⁵ Ayo Salami, PCA (as then was) in *Fayemi v. Oni* (Supra) at P. 101.

Election including the litigation which follows the Election process should be well addressed towards ensuring that the objective of the process is achieved and same is achieved if the litigation ends in substantial justice to the Parties.

Having examined the factors hindering the Judges from performing their roles, it is therefore ideal and pertinent to proffer some recommendations which should act as antidotes to the hindrances and ensure more justice to Parties in Election matters. The solutions are:

- i. Revisiting the appointing process to the Court of Appeal and Supreme Court whereby qualified Judges and persons may be appointed to either of the Courts from the Courts, private practice, the academic or even the corporate community.⁷⁶ The present manner of appointing Judges of the Court of Appeal from the Judges of the High Court and that of the Supreme Court from the Court of Appeal should be discarded for it is not all Judges in the Court that are qualified and fit for such elevation.
- ii. Creation of permanent Election Courts to handle all Election matters, both Pre - Election and actual Election matters. This will enhance specialization "and experience thereby ensuring justice to the Parties. For instance, in South Africa, there is an Electoral Court which is one of the specialized Courts in the Country which is of permanent nature and has exclusive jurisdiction over Election matters. Such will also partly reduce the power of the President of the Court of Appeal in appointing and constituting the Judges of the Election Tribunal as he will: no longer exercise such powers after every General Election except vacancy occurs.
- iii. There should be regular and continuous training of Judges in Election matters to enhance their knowledge.
- iv. Disciplinary measures and actions against the Bar and the Bench should be intensified.
- v. The composition of the National Judicial Council should be revisited and the powers of the Chief Justice of Nigeria in appointing virtually all members of the Council reduced.
- vi. The appointment of Judges to the High Court should be on merit and should be persons of great intellect, integrity, discipline and transparency.
- vii. Judges and Lawyers found culpable of corruption, judicial impropriety and / or judicial recklessness should not only be dismissed or disciplined but should also be prosecuted in criminal law to serve as deterrent to others.

⁷⁶ Taiwo Kupolati: Verses for Legal Revolution (Renaissance Law Publishers Ltd, Lagos, 2006) at P. 256.