



## Article

# **The Dynamism of Law in African Politics: Reflections on Nigeria's Electoral Irregularities and Adjudication, 2019 – 2023.**

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## **Abstract**

This paper investigated the widely acclaimed norm which posits law and justice as the oil that lubricates the locomotives of political economy in a democratic society using Nigeria's electoral irregularities and adjudication as focal point. The paper utilized Social Structuralism theory and Marxian scholarship as a framework and collated data from secondary sources and historical content method for analysis. The paper finds that Africa and particularly Nigeria's electoral irregularities and adjudication reflect the dynamism of law in politics as they duo are organically and intricately linked. Also, the paper argues that election is central to the civilization of a society and germane to the rule of law as manipulation of electoral process produces government that tantamount the principles of constitutionalism. Based on the research findings three recommendations were put forward among which is the urgent need for Nigerian nay African states to reconstitute their governance model to reflect the practicality of contemporary African political economy.

**Keywords:** Africa, electoral process, electoral irregularities & adjudication, Law, Nigeria.

## **Introduction**

The dynamism of law in African politics portends legal jurisprudence structure whose dynamics produces the effectiveness and ineffectiveness of electoral irregularities and adjudication (Nnani, 2020). Law being those set of rules and standards that governs relations between government and the people of a given political entity, checkmating its violations to award remedies and sanctions by means of these established mechanisms ought not to compromise. However, it appears that within African states the adjudication of law when political powers are involved wears contradictory dynamism. In that lies the dilemma of Salmond position that law is the body of principles recognised and applied by the state in the administration of justice. If the state which is personified by the government machinery that deals with

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the dispensation of this justice compromise with the group of corrupt people in government what happens to such a state and its electoral management.

The outcome of African electoral processes remains a far cry from the expectations of the peoples of Africa and falls far below what is obtainable in the developed countries. The capability of African states to conduct free, fair, credible, and peaceful elections has always been questioned. This is because successive elections in the continent have been marred by violence and myriads of irregularities and deficiencies in the electoral laws. Almost all the elections held in the continent since independence to date have largely fallen below acceptable international standards, degenerating, as they had, from mere thuggery and hooliganism to large-scale irregularities and violence which have characterized the country's 'tortuous' journey to democratization (Aleyomi, 2018). In this context, politics in Africa to some extent would mean those activities that concern itself with the constant struggle for power to influence the direction of the order of general elections and electoral adjudication, all geared towards the realization and consolidation of political power for the interests of the group of political 'cabals' in government.

Africa and, particularly Nigeria's political leadership and governance inability to create enabling rules and environment that would curb electoral irregularities and entrench smooth adjudication of electoral disputes and justice system remains the stroke that breaks the camel's back (Nnani, 2022). With the protracted transition that ushered in the current democratic process in 1999 to date, after about fifteen years of uninterrupted military rule, Nigerians and their international friends expected heady democratic days. Regrettably, there is widespread public speculations of interruptions in the smooth administration of electoral justice within the country's polity (Aleyomi, 2018).

The fact that electoral system in Nigeria had reduced politics to a zero-sum game where 'losers' are excluded from government despite winning a sizeable proportion of the votes and the winners takes it all makes politics a do or die affair and self-centred game in Nigeria. From 1999 to 2015, the Peoples' Democratic Party (PDP) as the ruling party has been a faithful disciple of this system and presently the All Progress Congress (APC) are enjoying it to the fullest (Birch, Daxecker & Höglund, 2020; Höglund, 2009). Therefore, the aim of this paper is to know whether electoral process in Nigeria is shaped by intricacies of law in the adjudication of electoral irregularities and disputes in the polity, and to critically assess the dynamism of law in the management of African politics using Nigerian electoral process and adjudication to determine these metamorphoses.

## **Review Literature**

In this section, we shall be looking at conceptual literature, empirical literature, theoretical framework, and gap in literature.

### **Conceptual Review**

We shall look into the concept of dynamism of law and politics, and election, electoral irregularities and adjudication in Africa.

### **Dynamism of Law and Politics**

It was Wilson who conceived law as that portion of the established thought and habit which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of government. That gainsays, without government backing the uniformed rules it would have no meaning. Pound observed that law is the body of principles recognised or enforced by public and regular tribunals in the administration of justice. In that progress, Green submitted that it is the system of rights and obligations which the state enforces. When the machinery of the state through which this system of rights and obligations are enforced compromise, what happens to the state. By extant legal and political theories

of sound logical reasoning, the application of law in a given political community must conform to the established norms of the state. Irrespective of the schools of thoughts on politico-legal doctrines, the essence of law is to secure peace and order through the administration of social justice. That was why Appadorai (1942, p. 61) surmised that these views are complementary to one another: as an adequate philosophy of law should recognise that while the authority of the political sovereign gives law its formal sanction, the real material content of law is shaped partly by the historical environment in which it grows and partly by the sense of right of the community.

Politics involves the gamut of processes associated with the seizure of state power, with the aim of possessing the legitimate authority to decide the fate of others regarding the distribution of tangible and intangible political and economic resources within the state (Nnani, 2022). In that, the American Political Scientist, Harold, Lasswell, defined it as the power to determine who gets What, When, and How. That is to say that the power and authority to decide the fate of a political entity lies within its politics. And it was in that perspective, that Austin Ranney (1958) submitted, that, politics is the art of “governing of men”. In this he tried to explain the relationship between those who rule and those who are ruled stating that it is the “cardinal point of any political life” (Nwosu, 2011, p.5). Echoing in same manner, David Easton was catchy in his definition of politics as authoritative allocation of values. By allocation of values Easton meant the distributions of resources in the society (Nwosu, 2011: 7). One can conclusively say that it involves tangible and intangible resources of the state.

Nigerian politics revolves around the patterns involved in the allocation of political power and management of electoral jurisprudence (Nnani, 2022). This was why Nwosu (2011) posited that politics are “those activities that affirm the existence of political power and its utilization in the production and distribution of resources in a political system.” It follows that politics revolves around the patterns involved in the allocation of political power and its utilization in the management of public affairs within a given political system.

Just as politics permeates law, law structures politics. Modern law and politics in a democratic order as a general rule intensively confront one another in legislative and other parliamentary procedures. This is where the influence of politics on law is the strongest. Nevertheless, modern law maintains a great amount of autonomy. This autonomy is achieved through: the fact that interest groups never fully determine the decisions of a pluralistic legislative body or could direct such body exclusively according to political preferences (Birch, Daxecker & Höglund, 2020). Substantive and procedural legal rules which to a large degree determine the limiting framework where the legislature operates creates certain parliamentary practice which it is difficult to depart from and the independent judiciary that limits excessive political aspirations placing them within the legal limits of functioning (Cassese, 2005). More so, Waldron (2004: 352), argued from a political perspective that the legal system can be viewed as part of the political system, which means that the legislatures and courts are political institutions, the rule of law is a political ideal, and adjudication and legal reasoning are practices and techniques which are part of the political culture of the society in which they flourish.

### **Election, Electoral Irregularities and Adjudication in Africa**

Elections have become an integral part of representative democracy. Ojo (2008) describes elections as the 'hallmark of democracy. Not only does election and electoral processes constitute the major process for instituting governments and for holding public officials accountable for their actions and keeping them responsive to the people's needs and interests in democracies, but also it provide citizens with the opportunity of exercising their constitutional rights to political participation and confer legitimacy on those responsible for the exercise of executive and legislative powers in the society (Aleyomi, 2018). Some elections are mere charades to legitimize authoritarian rule (Omotola, 2010c, 2011), which is why political scholars and observers argued that though an essential feature of democracy, election, does not

mean democracy (Biegon, 2009). Democratic elections must, ideally, satisfy the requirements of competition, participation and legitimacy (Omotola, 2010c).

Electoral system and process are in no doubt the major bedrock of any country's democracy as it determines electoral outcomes and democratic consolidation in any nation-state. When a country's political system is characterised with electoral irregularities and violence, her fate lies with effective electoral adjudication and justice system to remedy the situation. Adetula (2007), contended that the violent struggle for power, even in states which do not descend into armed conflict, still remains an important component of political life in Africa. Violence and associated electoral irregularities have become infused in political processes in Africa which Nigeria's political and electoral systems cannot take an exception. The historical trajectories of electoral politics in the country show the pervasive struggle to control electoral machinery for individual votes.

There must be intent to affect the electoral process before an electoral irregularities and violence ensues (Birch, Daxecker & Höglund, 2020). All forms of violence that come from differences in opinions and views during the process of elections could be regarded as electoral irregularities and violence which engender democratic regime (Aleyomi, 2018). Omotola (2010) posits that political parties are by all standard one of the most outstanding elements of modern government (Omotola, 2010). Viable political parties can only perform political socialization of electorates, facilitate recruitment of political leadership and serve as a unifying force in a fragile polity and by promoting such roles, political parties can contribute tremendously to democratic consolidation and electoral justice through successful resolve of factors causing electoral irregularities and ensure smooth conduct of elections. Hence, election can be seen as two sides of the same coin proving voice and legitimacy when the process is followed and all stakeholders, political parties inclusive, adhere to the agreed framework. While on the contrary may induce violence particularly in fragile states (Sisk, 2008).

-Taking into account the often-high octane politics surrounding closely contested presidential and gubernatorial elections in Africa, and the weakness of domestic courts in many African countries, international judges are likely to find themselves increasingly brought in as adjudicators of these fraught disputes. Gathii and Olabisi (2021) posits that the task of sustainable democratic system requires careful judicial decisions in matters that are highly political, reemphasizing that election tribunal judges are expected to be wary, independent and courageous in applying the rule of law in order to give effect to the wishes of the people in a democratic election. What is especially important, today, in many countries is the role of constitutional courts. These courts, as a general rule, routinely interfere with the politically conditioned and interwoven activities of the legislative and executive branches of power, and therefore their decisions are naturally more or less politically coloured. The fact that ideas about the new legal order of various societal fields are primarily an expression of a changed socio-political and economic thought to a smaller degree is of autonomous legal thinking.

## **Empirical Review**

With the weakness of domestic courts in many African countries, international judges are likely to find themselves increasingly brought in as adjudicators of these fraught disputes (Gathii and Olabisi, 2021). Justice Oputa once contended that 'the subjection of all is to the law and not to the whims and caprices of a tin god or any empty tyrant. Fundamentally, the aim and function of law is to produce justice. This instinct for justice led men to believe that right is right and that might be wrong and that right and not might is the true basis of the state' (Oputa, 2014). In other words, law, that powerful symbol of the state, must be constantly on the move adapting itself to changing social needs otherwise like the biblical salt which lost its taste and flavour it is no longer good for anything except to be thrown down and trodden underfoot.

The dynamism of law in African politics entails what has been referred to as ‘hegemonic or imperial presidency’ whose roots are traceable to colonialism. In that, Adebisi and Olowu (2022) contended that the African states colonial experience within the broader context of the intrusion of capitalist modernity was the central institutional force in the organization, production and distribution of social resources, adding that the centrality of the use of repression was the dominant method for inducing compliance from the colonized. The governor-general model was the framework for rulership where the executive, legislative and, judicial powers were in reality fused in one person. In other words, the governor-general exercised law-making, law enforcement, and law adjudication powers even in those cases where colonial legislative assemblies and courts existed.

Coming from the colonial experience ‘hegemonic or imperial presidency’ became the reoccurring decimal for authoritarian regimes that adorned the landscape of the African continent during the initial three decades of the post-colonial era and thus emergent all-powerful presidents of African states (Jackson ~~&and~~ Rosberg, 1982, p.1). Sawyer (2005, pp. 20-22) and this emergent all-powerful presidents of African states referred to as “prince, autocrat, prophet and tyrant” adding that they arrogated unto themselves multiple roles to accentuate their statuses as the “big men,” the chief administrative officer, the chief legislative officer, the chief judicial officer, the chief financial officer, and the chief procurement officer of the government.

Leon (2010) posits that the initial three decades of the post-independence era in Africa were marked by what he calls “the spectre of one-party states, ‘presidents for life,’ violent usurpations of power either through assassinations or military coups” (Leon, 2010, p. 2). Similarly, Igwe (2011) argues that the judiciary is mainly manipulated from presidential control over the financial, material, and logistical resources of the state. Using this position of dominance, he notes that the African states chief executives have then created a vast patron-client network as they serve as the chief patron and is assisted by a coterie of national and local pro-consuls, who serve as the intermediaries with ordinary citizens. Particularly, given the pervasiveness of mass poverty in Africa, these patron-client networks have become the sources of survival for ordinary citizens.

Amutabi (2009) probes the travails of law in Kenya politics. Specifically, he asserts that the phenomenon is shaped by two major sets of factors: ethnicity and partisanship. In the case of the former, presidential hegemony, such as Kenyatta, Moi, and Kibaki, used the dominant Kikuyu ethnic group as a major anchor of presidential dominance. In the latter case, the three former presidents employed the vast party machinery—Kenyatta and Moi used the Kenyan African National Union (KANU), while Kibaki used the “DP and its subsequent metamorphoses as NARC, PNU, etc.” (Amutabi, 2009:56).

Fombad and Nwauche (2012) examined some of the major effects of what they termed “presidential absolutism” on democratic governance and electoral justice in Africa (Fombad and Nwauche, 2012: 91). They conclude that, by and large, conventional constitutional checks have not succeeded in curbing the excesses of submitting that this phenomenon produces the abuse of power with impunity by various presidents. Prempeh (2008b: 110) provides an excellent summation of the staying power of African heads of state amid the third wave of democratization on the continent:

Africa’s current presidents may be term-limited, but by all accounts, they have not yet been tamed... In fact, the modal African presidency has emerged from the recent round of democratic reforms with extant powers substantially intact...power in the African state, and with its control of resources and patronage, continues to rest with the president, making the capture and control of the presidency the singular ambition of African politicians (Prempeh, 2008b: 110).

## Theoretical Framework

Social structuralism is a collection of theoretical ideas that adopts number and composition of classes in a society in determining its form. The theory argues that a society with single layer of individuals will have a different political, economic and cultural form from a double-layered one. Again, a double-layered society is bound to have forms of political, economic and cultural organisation different from a triple-layered one, and vice-versa. That gainsay that societies with structures of wide inequality cannot evolve patterns of behaviour consistent with those whose social structures are indicative of relative equality. The ancient Greek philosophers such as Aristotle among others thinkers posit that the pattern of wealth distribution among social classes or the predominance of one economic class or another predisposed a state for a particular form of social organisation (type and system of government). They recognised the imperatives of the pattern of distribution of wealth to structural equality or inequality arising from any of these patterns and therefore, correct constitutions are monarchy, aristocracy and polity, with tyranny, oligarchy and democracy as their corresponding deviations. Drawing from social structuralism theories, Anozie (2009) posited that as long as there is individual's unequal in many ways, the constitution, in deference to these perceived social structural disparities, must confer unequal rights while granting equal rights in places where relative equality of fortunes exists.

African states are well fragmented as class society and Marx believes that societies are divided into classes with unequal resources. Classes are determined by the position they occupy within a definite system of social production (e.g., slavery, feudalism, capitalism, etc). In a class society, one class by virtue of its control of the means of production appropriates the products of labour to itself to the detriment of other classes. A dominant, privileged group dominates both the economy and the polity and by extension the legal system. The fierce struggle to win and control state power and use same for the personal economic advantage of politicians lie at the root of all electoral frauds, irregularities and malpractices in Nigeria and Africa in general (Libson, 2016). It is equally the essence behind all the legal tussles that follow most elections in the continent.

The theory is germane to this paper as it helps to appreciate inherent structural deficiencies in electoral laws and justice system in Nigeria nay Africa as socio-economic disparity and inequalities are quite enormous. It showed that high level of socio-economic inequalities in African states is the pillar of the dynamism of law in the continent's electoral irregularities and adjudication. The Marxian version of the theory underpins the negligence of the social classes in the development and formation of constitutions in African political system which turns out to produce the electoral irregularities and adjudications in many contemporary African states.

## Gap in Literature

This paper intends to trace the metamorphoses of law in African politics in order to demystify whether the irregularities in our electoral processes and adjudications are akin to colonial and imperial legacies or embedded in the character of Africans whose political activities portends what I hereby refer to as political profiteering bourgeois. It was Williams Robertson that asserts, "In every inquiry concerning the operations of men when united together in society, the first object of attention should be their mode of subsistence. Accordingly, as that varies, their laws and policies must be different. The abstract and unverified belief that the general laws of economic life are one and same no matter whether they are applied to the present or to the past or from one place to another is erroneous and illogical and at it lies the departure of this paper which intend to appraise the interaction of law and politics on the subsistence of the African states using Nigeria as an example.

## Methodology of the study

Data were collected from documentary evidence captured in scholarly and professional textbooks, online published academic journals and from Nigerian electoral umpire. Information drawn from documentary evidence of previous researchers on the subject matter was used for analysis. That is to say data were collected and collated from secondary source and historical content was used for data analysis. The justification of our method of data collection is that the nature of the paper does not require primary data and even, it will be too costly for a journal paper.

## Data Presentation and Analysis

See the results of Election Petitions in Nigeria in table one below:

**Table1: Summary of trend in election petitions in Nigeria between 1998-9 to 2023**

Pre-2011 electoral reform period (1998/9- 2007)			Reform implementation period (2011)			Post-2011 electoral reform period (2015- 2023)	
Election year	№ of petition		Election year	№ of petition		Election year	№ of petition
1998-9	2		-	-		2015	611
2003	574	X	2011	732	X	2019	1,697
2007	1,291	X	-	-	X	2023	1,996
<b>Total</b>	<b>1,867</b>	-	-	<b>732</b>		-	<b>4,304</b>

Source: extracted from Obiagu (2023a).

The transition elections recorded only 2 election petitions because many Nigerians earnestly desired to make the sacrifice for democratic governance despite cases of irregularities that undermined the elections. However, the litigation figure astronomically increased from two in 1998-9 to 574 and 1,291 petitions in the 2003 and 2007 election seasons respectively. Although the figure decreased in the 2011 and 2015 election cycles with 732 and 611 respectively due to the optimism that the reform interventions and adoption of innovative devices would enhance credible elections, contested election outcomes did not leave the Nigerian electoral space. The situation was exacerbated with 1,697 and 1,996 petitions during the 2019 and just concluded 2023 elections respectively.

## Electoral Irregularities: Reflections of 2019 and 2023 general elections in Nigeria's

Elections are the life-blood of all modern democracies. The strength of every democracy is sustained by ensuring free, fair, credible and peaceful election where the verdict and vote of the people counts. The 2019 and 2023 elections indicate no significant progress in Nigeria's democratic politics. The issues that have characterised the dynamism of electoral laws in Nigerian politics impacted negatively on electoral irregularities and adjudication. The contributions in the present special issue have compellingly illustrated how the elections produced the recurrent problems Nigeria has faced over a period of time. See table2 below:

**Table 2: Summary of trend in voter participation in Nigeria, 1999–2023**

S/N	Election year	Total Registered Voters	Total valid votes	Voter turnout (%)
1	1999	57,938,945	30,280,052	52.26
2	2003	60,823,022	42,018,735	69.08
3	2007	61,567,036	35,397,517	57.49
4	2011	73,528,040	39,469,484	53.68
5	2015	67,422,005	29,432,083	43.65
6	2019	82,344,107	28,614,190	34.75
7	2023	93,469,009	24,965,572	26.71

Source: culled from Obiagu (2023c)

The characterization of Nigerian elections by killings and fraud-instigating litigations consequently informs the depleting public confidence in Nigeria's electoral institutions, election management, and/or electoral process. Voter participation trend moved in the direction of fatal election violence and election litigations. Thus, voter turnout began at 52.26 percent recorded during the 1998-9 election season and peaked at 69.08 percent in 2003 before witnessing a consistent downward movement, which recorded a decline of 18.31 percent from 69.08 in 2003 to 57.49 percent in 2007. The 2011, 2015, and 2019 election seasons recorded 53.68, 43.65, and 34.75 percent respectively. The 2023 elections witnessed the worst turnout in Nigeria's electoral history with 26.72 percent. Further table3 reveals the rate of bloodshed in the Nigeria's fourth republic.

**Table3: Summary of trend in bloody Nigerian elections between 1998-9 and 2023**

Pre-2011 electoral reform period (1998/9- 2007)		Reform implementation period (2011)			Post-2011 electoral reform period (2015- 2023)	
Election year	No of death	Election year	No of death		Election year	No of death
1998-9	80				2015	106
2003	100	2011	965	x X	2019	756
2007	300	-	-	x X	2023	137
<b>Total</b>	<b>480</b>	-	<b>965</b>		-	<b>999</b>

Source: *Repeated electoral irregularities: Explaining Nigeria's elections in seven quadrennial election cycles* (November 2, 2023c) by Obiagu.

In comparative terms, Table3 revealed that the pre-2011 period recorded the least bloodshed with 480 deaths (19.64% of the 2,444 total). For the 2011 period, the number more than doubled by 101.04 percent from 480 to 965 deaths which represent 39.48 percent of the total figure. In like manner, the post-2011 period became the bloodiest election season and claimed 999 lives (40.88%). In all these cases, Northern Nigeria remains the worst hit in terms of fatal election violence. To illustrate, out of 756 deaths recorded in 163 incidents in the 2019 election season, the North appropriates 570 (75.40%) deaths in 61 (37.42%) incidents, while 186 (24.60%) deaths in 102 (62.58%) incidents were recorded in the southern part of the country (Thisday, 2023, July 16). All these partly have consequences on election disputes and



participation in Nigeria. Deducible from tables 2 and 3 is the following features that dominated the 2019 and 2023 general elections:

**1. Weak democratic culture and bad leadership:** The elections show that the political elite are yet to fully embrace the ethos and values that underlie liberal democracy. Elite behaviour remains a challenge in Nigeria's democracy. Driven by the 'do-or-die' mentality, the elite engaged in practices that undermined and frustrated efforts established by the EMB to strengthen the electoral process. The party primaries for candidate selection were overwhelmed with large-scale violence and unresolved controversies. There were arson attacks on INEC's buildings and election materials with a deliberate aim of sabotaging the elections. The elite recruited political thugs to intimidate voters and developed sophisticated strategies for vote buying and other malpractices, despite an intense campaign against them before the elections. This weak democratic culture associated with electoral irregularities entrenches bad misgovernance and bad leadership in Nigeria.

**2. Economic Backwardness and Insecurity:** electoral irregularities such as witnessed in most past Nigerian elections, had seriously affected national development and nation building by enthroning mediocre leadership, which have been responsible for poor infrastructural development such as roads, housing, electricity, hospitals etc. It also contributed to the poor educational system, low life expectancy and security problems such as armed robbery, hired assassins, kidnappers and terrorism. It would amount to stating the obvious if we say that poor electoral integrity is the bane of national development in Nigeria and the main reason for the present underdevelopment in the country.

**3. Weak and non-neutral state institutions:** The elections bring to the fore the popular discourse on the weakness of state institutions and their vulnerability to manipulation by the political elite. Election-related agencies that are germane to ensuring electoral integrity could not meaningfully display sufficient independence and impartiality in the elections (Obiagu, 2023b). The EMB and security agencies cannot be totally absolved from many allegations of bias for the ruling party. There were numerous cases of vote cancellations by the INEC in areas considered support-bases of the opposition. INEC's sudden postponement of the presidential election a few hours to its commencement has also been alleged to have been engineered by the political actors – although with no substantial proof. The massive deployment of security personnel to opposition areas has been claimed to have discouraged voting in the area and limited the chances of the opposition presidential candidate.

**4. Low public trust:** The citizen's trust in democratic institutions and processes has been on a downward trend since democratic transition in 1999. Surveys demonstrate rising public dissatisfaction in the Nigerian state due to bad governance, failure to deliver on promises and perceived partiality of state institutions, including those related to elections (Bratton & Gyimah-Boadi, 2016). This has accounted for growing political apathy and aversion to democratic principles by the citizens. The 2019 general elections experienced the worst voter apathy in the history of the country. In fact, President Muhammadu Buhari was re-elected by just 18% of registered voters, while only 35% registered voters voted in the election (Akinyemi, 2019).

**5. Cleavage-based voting:** The voting pattern shows that Nigerian voters are not yet sophisticated in their voting decisions. Their choices are still driven by primordial sentiments, particularly ethnicity and religion, and attest to social divisions that have enveloped politics in the country since its independence.

Notwithstanding the reality that the principal candidates for the presidential election shared many identities in terms of religion and ethnicity, the geopolitics of support for their parties reinforces ethno-religious factors in voter behaviour. The All Progressives Congress (APC) won in the geo-political zones with a huge population of Muslims and the northern Hausa-Fulani group, while the People's Democratic Party (PDP) attracted more votes in areas more inhabited by Christians and southern ethnic groups.

**6. Election violence:** Violence has been a hallmark of elections in Nigeria. It was responsible for democracy breakdown in the previous democratic experiences. Since the transition to democracy in 1999, elections have been marred by violence due to a low level of democratic culture. A similar pattern of violence occurred in the 2019 elections, although with lesser cases of post-election violence experienced in 2011. The Situation Room, a local civil society group, reported that 626 lives were lost in the election process, including the pre-election campaign period and during the election (Obiagu, 2023c).

### **Electoral Process and Irregularities in Nigeria: The Case against the Judiciary**

After one year of the 2019 general elections in Nigeria, courts were still busy deciding who the winners were in dozens of them. One of the most recent cases was in Bayelsa State. The candidate of the All Progressives Congress was initially thought to have won the election. But, he was sacked by the Supreme Court 24 hours before his swearing-in ceremony because, the court found, his running mate had presented fake documents and was therefore disqualified. You can't be a candidate without a qualified running mate. There is also a case in Imo State. There, the candidate of the Peoples Democratic Party was sworn into office like others on 29 May 2019. But he was removed by the Supreme Court following a dispute over the electoral result. In its ruling, the court declared the candidate of the All Progressives Congress the winner, a candidate that came fourth at the poll.

Until recently there was no time limit on election petition, and inauguration of candidates comes up after disposal of petition. According to Libson (2016), politicians, especially beneficiaries, use all sorts of subterfuges in the statute books to frustrate the judicial process. They hire the best of election petition lawyers who use legal technicalities to delay the court process. A legal luminary and former Chief Justice of Nigeria, Akinola Aguda noted that:

It is of course a matter of common knowledge that the manner in which some judges ...dealt with election was one of the causes of the demise of the Second Republic (in Iriekpen, 2010:23).

Some Nigerian judges handling election matters have also been accused or indicted of crass and undisguised partisanship and giving rulings and judgments that, at least to the non-legal mind, border on the ridiculous and the absurd. (Onapajo and Babalola (2020), state that a classic example of controversial nay inconsistent ruling by the courts relates to the case of Rotimi Amaechi in Rivers state where the Supreme Court affirmed the primacy of political parties in the conduct and contest of elections and stated that: "it is the political parties that the electorates do vote for at election time. However, it went ahead to declare the candidate (Rotimi Amaechi) who did not campaign during the elections, whose name was not on the ballot and who nobody voted for as the duly elected governor of Rivers State (Onapajo, & Babalola, 2020). It was Lord Denning of England who posited that 'a country can put up with harsh or unjust laws, so long as they are administered by just judges who can mitigate their unfairness.' One would wonder then what Nigeria nay Africa would face with good laws and unjust judges who mitigate electoral

irregularities. Society can scarcely run on an even keel without justice... Remove justice, and what are kingdoms but gangs of criminals on a large scale? It is justice that oils the wheels of the social machine removing the rust of excesses and arbitrariness and, balancing rights with duties and powers with safeguards so that neither rights nor power shall be exceeded or abused (Oputa, 2014).

Electoral irregularities and adjudication can never be proved so long as there are judges who will love to beat about the legal bush with so much self-serving magisterial authority, who can even allow themselves the luxury of lamenting for, and even pitying, the fate of litigants before them – but then go ahead and negate the spirit of law and principle of natural justice (Adamu, 2008). Babalola puts the matter even more succinctly that, today things have changed... nowadays, politicians would text the outcome of judgment to their party men even before the judgment is delivered and prepare their supporters ahead of time for celebration (Sunday Trust, May 29, 2011: 29). Justice Oputa in his Socrates method poised certain questions, asking, “How does a country collapse? Is it in one terrible dramatic moment? No. It took Rome 400 years to fall. The decay of a nation, leading to its fall, is usually a gradual process, sometimes imperceptible... Has Nigeria and Nigerians been faithful to all our national ideals? If yes, we are live and growing; but if no, we are gradually dying, leaving Nigeria as a NATION IN DISTRESS” (Oputa, 2014).

### **Findings and Discussions**

It was Hobbs who observed and submitted that man is by nature; selfish, wicked, nasty, brutish and poor. One god that African political leaderships worship is their political interest which leads to the metamorphoses of electoral irregularities and adjudications in Africa nay Nigeria. Will a president that emerged through a manipulated election results and adjudication feel disturbed to eliminate any form of electoral irregularities and adjudications in Nigeria? It is a matter of facts that through elections, people are able to reassert the fact that power or sovereignty actually belongs to them by electing those who will carry out their aspirations for a specific period and rejecting those who they do not trust or who had actually failed them in time past. Through this process a government of popular will is put in place. Therefore, sound electoral process is sine-qua-non to asserting the popular will (Onapajo, & Babalola, 2020).

Nigeria's democratic journey reached another milestone following the successful completion of the general elections in 2023. Given the intense competition that surrounds elections in Nigeria, every electoral period generates fear of a possible large-scale conflict that may cause democratic breakdown or national disintegration. No wonder that the judiciary has always been regarded as the last hope of the common man. It is through the judiciary that the cutting edge of the doctrine of rule of law is felt and appreciated. Clearly, the 2019 and 2023 general elections were followed with great expectations because of the improvements recorded in the previous general elections in 2015. However, going by public comments and election observers' reports, the 2019 general elections was characterized with electoral irregularities and upheaval on electoral adjudications which sparked the curiosity of Nigerians to question the integrity of the Nigerian judiciary. Electoral irregularities such as the inability of the INEC to handle logistical problems and administrative deficiencies impacted negatively on the quality of the elections. Kleinfeld (2021) argued that when groups believe that they can use any means outside the law (including violence) to sway the electoral process without consequences, they are more likely to do so. Impliedly, when Nigerian leaders abuse the privileges of their offices without consequences, it becomes an incentive

for future violations of Nigerian laws. This explains the problem with flawed Nigerian elections arising from institutional failures.

### **Juxtaposing the findings in Nigeria with some African Countries**

The 2007 elections in Kenya and Nigeria claimed hundreds of human lives with thousands of displaced and injured persons. In these elections, there were various cases of sexual and gender-based abuses. While Kingsland (2016) identified a lack of public oversight of electoral actors and processes as a major problem with Kenyan elections which was relatively addressed through the post-2007 electoral reforms, such reforms exist in Nigeria but are mostly active in legal tomes (Kingsland, 2016; Obiagu, 2023a). Thus, the electoral problem and its solution remained a tall order in the latter.

Similarly, while judicial systems in Kenya and Malawi have demonstrated confidence with their phenomenal judgements that invalidated the 2017 and 2020 presidential elections in these countries respectively due to irregularities despite receiving validation from election observers, such a landmark feat mainly exists in the imaginative minds of Nigerian voters. A similar feat was recorded in 2022 in Kenya when the Supreme Court validated Ruto's victory despite presidential support for another candidate, which relatively depicts an improvement in election management in the country (Lynch, 2022). As members of the judiciary in some African countries make concerted efforts to improve the qualities of their electoral governance through renewed institutionalization, the reverse is the case in Nigeria. This becomes lucrative since the Nigerian court system has, in operation not in law, become a quasi-electoral body. Instead of voiding INEC declarations of election winners based on facts of law and order INEC for rerun elections, the courts in Nigeria have assumed the responsibility of outrightly declaring election winners.

The practice that guarantees the security of tenure to the head of Ghana's electoral body and the two deputies is still strange to many African countries like Nigeria and Côte d'Ivoire. In the latter case, the principal electoral officers "enjoy the same terms and conditions of service as Justices of the Court of Appeal and cannot be removed arbitrarily until retirement at age 70"; in the former case, the officers statutorily serve five-year tenure, renewable for another term, but can be removed by the President on flimsy grounds (Omotola, 2010c: 541). According to the National Academy of Sciences (2018), rising to power through an illegitimate process has serious undermining effects on the quality of leadership. Impliedly, it affects government performance and sometimes leads to democratic breakdown.

In the last three years between August 2020 and July 2023, six African countries: Mali, Chad, Guinea, Sudan, Burkina Faso, and Niger, have experienced democratic breakdown and this raises the fear of regional destabilization (Olajide, 2023). In these countries, the elected governments are accused of failing to deliver on democratic dividends and their election promises to the people. In some cases, the coups receive civilian support and open celebration of the fall of democracy in their countries (Rivero, 2023), even when they are not sure of the future under the military junta. When elections are manipulated, they can trigger and/or heighten fierce partisan competitions, engineer citizen demonstrations, and represent the substitution of free choice with coercive intimation without recourse to its suppressive effects on participation (Birch et al., 2020; Norris et al., 2015). All these raise questions of electoral legitimacy regarding elected authorities.

## Conclusion

The crux of the dynamism of law in African politics and the reflections of Nigeria's electoral irregularities and adjudication resolves in the metamorphosis of the supremacy of politics to law in a developing society. Though politics permeates law and law structures politics, law in a civilized society ought to be a being that is above its creator (political economy) if it must realise its utmost purpose of peace, order and development. It is then that the reflections of the dynamism of law in African politics can impact meaningfully and positively in the mitigation of electoral irregularities and disputes. To achieve that, Africa nay Nigerian society must pay attention to her leadership attitude. As we learn from history, there is the need to realise that extreme individualism forgets the social functions of the state and extreme socialism forgets the sanctity of the human person.

The greatest and most effective and enduring panacea to all the hiccups, controversies and problems associated with election petitions is not to have the petitions in the first place. Not just Nigeria but rather the entire African democratization process and experiment are characterized with disputes emanating often during elections, and these days more frequently and more viciously, because extreme looting of public funds has made governance the quickest route to stunning affluence in the continent. The dynamism of law in African politics reflects the character of the heads of states in Africa which is found in their manipulations of the electoral process, irregularities and adjudication in order to remain power and achieve personal aggrandizement. Based on the above, the following Recommendations are put forward:

1. There is an urgent need for Nigerian nay African states to reconstitute their governance model to reflect the realities of African political economy: They should remould the types and systems of government in line with practical activities of human interactions in their society.
2. The need for new men with utmost moral political integrity in African states political system and in the judiciary is the pillar and key to the bane of electoral irregularities and contentious electoral adjudication.
3. Sound management and adjudication of electoral irregularities and disputes is the pinnacle for electoral democracy and justice.

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