



## Judicial Interventions and Constitutional Governance in Nigeria

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### Abstract

Beyond its consequences for individual electoral outcomes, Nigeria's Fourth Republic has witnessed a pattern of Supreme Court intervention whose implications for the capacity of democratic institutions, the character of political transitions, and the constitutional order have received comparatively less systematic scholarly attention. This paper examines judicial interventions and constitutional governance in Nigeria, focusing specifically on the capacity and autonomy of democratic institutions, the peaceful transfer of political power, constitutionalism and the rule of law. The study adopts a qualitative research design, combining primary data generated through in-depth interviews with doctrinal legal analysis of selected landmark Supreme Court governorship election judgements in Zamfara, Imo, and Bayelsa States, generated through purposive sampling, as methods of data collection and analysis. It employs a dual theoretical framework, namely the New Institutionalism Theory and the Democratic Consolidation Theory. Findings reveal that the Supreme Court's jurisprudential interventions eroded the operational authority of the Independent National Electoral Commission, vitiated internal party democratic processes, and inflicted self-damage on the judiciary's own institutional credibility, while bearing a genuinely double-edged relationship with the peaceful transfer of political power. The paper recommends, among other things, that judicial appointment and removal powers be vested in a genuinely independent commission insulated from executive control, and that a dedicated Electoral Justice Court be established with mandatory written reasoning to restore doctrinal consistency to Nigeria's electoral jurisprudence.

**Keywords:** Constitutional governance; democratic institutions; judicial interventions; new institutionalism; peaceful transfer of power; rule of law

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### I. Introduction

Democratic institutions do not operate in isolation from one another: the strength of an electoral management body, the internal democratic health of political parties, and the credibility of the courts are mutually reinforcing conditions for constitutional governance. In Nigeria, the Supreme Court occupies a uniquely powerful position within this institutional architecture, exercising both original and appellate jurisdiction under Sections 230 to 236 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), with its judgments binding on all other courts and institutions in the country. Beyond resolving individual electoral disputes, the apex court's interventions in governorship election matters since the return to civilian rule in 1999 have repeatedly implicated the institutional capacity of the Independent National Electoral Commission, the internal workings of political parties, and the character of political transitions themselves.

Since the inception of Nigeria's Fourth Republic, the frequency and reach of these interventions have grown considerably, with the apex court called upon not merely to settle isolated electoral disputes but, in effect, to determine whether the country's core democratic institutions retain the autonomy and credibility required to sustain constitutional governance. This paper accordingly examines the Supreme Court's jurisprudential interventions and their implications for the capacity and autonomy of democratic institutions, the peaceful transfer of political power, and constitutionalism and the rule of law in Nigeria during the Fourth Republic.

### **Statement of the Problem**

Beyond its consequences for individual electoral outcomes, Nigeria's Fourth Republic has witnessed a pattern of Supreme Court intervention whose implications for the capacity of democratic institutions, the character of political transitions, and the constitutional order have received comparatively less systematic attention than its implications for electoral outcomes themselves. The Independent National Electoral Commission, political parties, and the judiciary each depend on institutional authority and public confidence to perform their constitutional functions, yet the landmark judgements in Zamfara, Imo, and Bayelsa States have repeatedly tested the boundaries of that authority, with the Commission's declarations of electoral results routinely reversed on grounds outside its own administrative conduct of the election (Omoregie *et al.*, 2025).

The manner in which political power changes hands is equally a central concern of democratic consolidation theory, which distinguishes formally peaceful transitions from those that are also substantively democratic that is, transitions that follow from and are accepted as legitimate responses to popular electoral verdicts (Linz & Stepan, 1996; Huntington, 1991), a concern that resonates with broader scholarship on peacebuilding and security interventions in Nigeria's most politically volatile states (Kalagboret *et al.*, 2024). Finally, the rule of law requires that courts apply constitutional principles consistently across similar cases, a requirement whose violation strikes at the foundation of constitutional governance itself, and whose breach across the three landmark cases examined in this paper has generated an unresolved crisis of jurisprudential consistency in Nigeria's electoral adjudication. These concerns collectively frame the enquiry that follows, which examines the Supreme Court's jurisprudential interventions and their implications for the capacity and autonomy of democratic institutions, the peaceful transfer of political power, and constitutionalism and the rule of law in Nigeria.

## **II. Aim and Objectives**

The aim of this paper is to examine judicial interventions and constitutional governance in Nigeria. The specific objectives are to:

1. Appraise judicial interventions and the enhancement of the capacity and autonomy of democratic institutions with respect to Zamfara, Imo and Bayelsa States, Nigeria,
2. Analyse judicial interventions, peaceful transfer of political power in Zamfara, Imo and Bayelsa States, Nigeria, and
3. Examine judicial interventions, constitutionalism and the rule of law in Zamfara, Imo and Bayelsa States, Nigeria.

### **Research Questions**

The following research questions are framed to guide the achievement of the aim and objectives of this paper:

1. To what extent have judicial interventions enhanced the capacity and autonomy of democratic institutions in Zamfara, Imo and Bayelsa States, Nigeria?
2. What is the relationship between judicial interventions and peaceful transfer of political power in Zamfara, Imo and Bayelsa States, Nigeria? and
3. What is the relationship between judicial interventions and constitutionalism and the rule of law in Zamfara, Imo and Bayelsa States, Nigeria?

## **III. Methodology**

This paper draws on data generated from a qualitative, multiple comparative case study of Supreme Court governorship election judgements in Zamfara, Imo, and Bayelsa States, complemented by forty-two in-depth semi-structured interviews with purposively selected respondents spanning nine professional categories across the three states. Documentary sources consulted include the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Electoral Act 2022, National Judicial Council records, peer-reviewed journal articles, and law reports. Data analysis proceeded along two complementary tracks: doctrinal legal analysis of the three landmark judgements, situated within political science theory on institutionalism and democratic consolidation, and thematic analysis of the interview data using the six-phase framework of Braun and Clarke.

### **Theoretical Framework**

This paper adopts a dual theoretical framework, namely the New Institutionalism Theory and the Democratic Consolidation Theory. The New Institutionalism Theory, rooted in the foundational contributions of Meyer and Rowan and further developed by Scott, explains how regulative, normative, and cognitive-cultural institutional pressures shape the behaviour of judicial and political actors, and it supplies the concept of institutional 'decoupling' the divergence between an institution's formal commitments and its actual practice central to understanding how the Supreme Court's formal constitutional commitments to impartiality and consistency have diverged from its actual conduct. This institutional reading is reinforced by democratic

governance scholarship more broadly, which similarly emphasises the institutional and procedural conditions including accountability, transparency, and the rule of law necessary for legitimate governance (Bevir, 2012; Organisation for Economic Co-operation and Development [OECD], 2014; Perre & Peters, 2000; United Nations Development Programme [UNDP], 2012), as well as Nwabueze's (2009) conception of 'judicialism' as the exercise of judicial oversight to ensure that the business of governance is conducted according to law.

This is complemented by the Democratic Consolidation Theory of Linz and Stepan (1996). Central to this theory is the proposition that democratic sustainability rests on the simultaneous achievement of behavioural, attitudinal, and constitutional consolidation, with the constitutional dimension in particular requiring that all actors, including the judiciary itself, become habituated to resolving conflict within specific laws, procedures, and institutions sanctioned by the democratic process supplying the direct analytical link between this paper's institutional, transitional, and rule-of-law concerns.

The New Institutionalism Theory is relevant to this paper because it explains why formally independent institutions such as the Independent National Electoral Commission and the judiciary itself may nonetheless behave in ways inconsistent with their constitutional mandates, while the Democratic Consolidation Theory contributes the constitutional-level benchmarks against which the institutional capacity, transitional, and rule-of-law consequences of the Court's interventions in Zamfara, Imo, and Bayelsa States are evaluated in this paper.

### **Conceptual Clarification**

The conceptual clarification of this paper focuses on the concepts of judicial intervention, constitutional governance, institutional capacity and autonomy, peaceful transfer of political power, and constitutionalism and the rule of law.

### **Judicial Intervention**

Judicial intervention in the electoral process refers to the formal involvement of courts in determining, validating, nullifying, or otherwise influencing electoral outcomes and the processes that produce them, encompassing the adjudication of pre-election matters concerning candidate qualifications and party primaries, the resolution of election petitions challenging declared outcomes, and the interpretation of contested electoral law provisions (Kalagbor, 2026).

Viewed through an institutional lens, judicial intervention is not merely an isolated act of adjudication but an interaction between institutions namely the courts, the Independent National Electoral Commission, political parties, and, indirectly, the executive and legislative arms of government each operating within a framework of formal rules that both empowers and constrains their respective roles (Meyer & Rowan, 1977; Scott, 1995). Where this institutional framework is robust and consistently observed, judicial intervention functions as a stabilising mechanism that reinforces the predictability on which constitutional governance depends; where the framework is inconsistently applied, however, the same act of judicial intervention can instead expose and deepen institutional fragility, a dynamic Hirschl (2004) associates with the broader phenomenon of 'juristocracy', in which the courts' expanding decisional authority over mega-political disputes outpaces the institutional safeguards designed to constrain that authority.

In the Nigerian context, and as illustrated by the Zamfara, Imo, and Bayelsa cases examined in this paper, judicial intervention has, in turn, tested the institutional relationship between the courts and internal political party structures over the conduct of primaries, the institutional relationship between the appellate courts and the Independent National Electoral Commission over the integrity of the collation process, and the institutional relationship between the courts and the statutory framework governing candidate eligibility. Understood in this way, judicial intervention is a variable institutional process whose consequences for constitutional governance depend on the specific institutional relationship being adjudicated in each instance, and it is this institutional variability, rather than the electoral outcome alone, that the remainder of this paper interrogates.

### **Constitutional Governance**

Constitutional governance refers to the exercise of political and institutional authority within the bounds of a constitution, such that power is acquired, exercised, and transferred in accordance with established legal rules and procedures rather than the discretion of individual actors. Bevir (2012) situates this understanding of governance within a broader conception of governance as a pattern of rule that emerges from the interaction of multiple institutions and actors operating according to shared rules and norms, rather than from the unilateral exercise of power by any single organ of the state, including the judiciary. It is closely related to, though analytically distinct from, the broader concept of democratic governance, understood as the exercise of political authority through institutions and processes that are accountable, transparent, participatory, and responsive to citizens (Bevir, 2012; Organisation for Economic Co-operation and Development [OECD], 2014; Perre & Peters, 2000; United Nations Development Programme [UNDP], 2012).

The Organisation for Economic Co-operation and Development (OECD, 2014) identifies transparency, accountability, and the rule of law as mutually reinforcing pillars of governance conducted within a constitutional framework, such that the legitimacy of any governmental act including a judicial determination altering an electoral outcome depends on its conformity with established constitutional procedure rather than on the acceptability of its result to any particular political actor. Perre and Peters (2000) further distinguish constitutional governance from governance in the broader sense by emphasising its grounding in enforceable legal limits on state power, limits that bind the judiciary as much as the executive and legislature, such that a court's intervention in an electoral dispute is itself subject to scrutiny for its conformity with constitutional procedure. The United Nations Development Programme (UNDP, 2012) adds that constitutional governance in transitional and developing democracies is measured not only by the existence of a written constitution but by the consistency with which its provisions are observed in practice, including in moments of institutional stress such as contested elections and the judicial determinations that follow a caution consistent with O'Donnell's (1996) warning that formally democratic institutions may nonetheless mask substantively inconsistent or arbitrary practice behind a veneer of legal procedure.

Nwabueze (2009) captures the judicial dimension of this concept through the notion of 'judicialism', describing it as the role of the courts in ensuring that the business of governance is conducted according to law, and cautioning that a judiciary which departs from principled and consistent legal reasoning, however well-intentioned its motives, risks eroding the very constitutional order it is meant to uphold. For the purpose of this paper, constitutional governance is examined specifically through three of its institutional dimensions the capacity and autonomy of democratic institutions, the peaceful transfer of political power, and constitutionalism and the rule of law each of which is shaped by the character and consistency of judicial intervention in electoral disputes in Zamfara, Imo, and Bayelsa States.

#### **Institutional Capacity and Autonomy, Peaceful Transfer of Political Power, and Constitutionalism and the Rule of Law**

Institutional capacity and autonomy refer to the operational authority, administrative independence, and public credibility with which democratic institutions including the Independent National Electoral Commission, political parties, and the judiciary itself are able to perform their constitutional functions without undue external interference. Peaceful transfer of political power refers not merely to the absence of violence in a political transition, but to the voluntary, consent-based acceptance by the outgoing party of an electoral verdict as the legitimate basis for relinquishing office. Constitutionalism and the rule of law refer to the principle that governmental power, including judicial power, is exercised according to consistently applied constitutional and legal principles, such that like cases are decided alike. Together, these concepts supply the analytical framework against which the Supreme Court's interventions in Zamfara, Imo, and Bayelsa States are examined in this paper.

### **IV. Findings and Discussion**

#### **Judicial Interventions and the Capacity and Autonomy of Democratic Institutions**

The study revealed that judicial interventions across the three landmark cases progressively eroded the operational authority of the Independent National Electoral Commission. In the Zamfara case, INEC's declared results for every elective office were nullified on grounds relating to the APC's internal primary conduct a matter entirely outside INEC's own administration of the general election. In the Imo case, the Supreme Court inflicted the most significant institutional damage of the three cases by relying on result documents that INEC's own officials testified had not passed through the Commission's collation system, publicly repudiating INEC's administrative records. In the Bayelsa case, INEC's administrative finality was disrupted at the latest possible stage of the electoral process, after the Commission had already issued a certificate of return to the declared winners.

The study also revealed that the normalisation of pre-election litigation, most starkly illustrated by the Zamfara case, has distorted internal party democratic processes toward litigation-proofing rather than genuine participation, while the Supreme Court's own institutional credibility sustained self-inflicted damage through the arithmetically contested reasoning in the Imo case, consistent with Nwabueze's (2009) warning that a judiciary which departs from principled legal reasoning forfeits its claim to be a genuine guardian of good governance.

#### **Judicial Interventions and Peaceful Transfer of Political Power**

The study further revealed a genuinely double-edged relationship between judicial interventions and the peaceful transfer of political power across the three cases. In each instance, the transfer of the governorship was procedurally peaceful but substantively court-imposed rather than electorally mandated, disrupting the voluntary, consent-based character of democratic transition associated with genuine consolidation (Huntington,

1991). This disruption was most acute in the Imo case, which generated the most sustained social conflict of the three, and clearest in the Zamfara case, where an entire slate of elective offices changed hands without a corresponding popular mandate.

The study equally found, however, that the Bayelsa case illustrates a paradoxical pacification function: by providing a legal channel through which a genuine constitutional qualification dispute could be resolved, the Court arguably averted a more chaotic or contested transition, even though the timing of the judgment, delivered barely twenty-four hours before the scheduled inauguration, still disrupted the orderly character of the transfer.

### **Judicial Interventions and Constitutionalism and the Rule of Law**

The study finally revealed that the selective application of constitutional principles across the three cases has produced an unresolved precedent crisis threatening the rule of law. The Court applied the doctrine of party primary compliance rigorously and consistently in the Zamfara case, yet applied markedly different evidentiary and constitutional standards in the Imo case, producing what Ikyaseet *al.* (2022) characterise as a flagrant miscarriage of justice.

By contrast, the comparatively clear constitutional ground for disqualification in the Bayelsa case reinforced rather than undermined confidence in the consistency of candidate-qualification jurisprudence, distinguishing it favourably from the more doctrinally contested reasoning in the Imo and Zamfara judgments. This inconsistency across structurally similar cases represents a departure from the doctrinal consistency that constitutionalism requires, and from the standard of governance conducted according to law that Nwabueze (2009) and the broader democratic governance literature identify as the hallmark of legitimate institutional authority (Bevir, 2012; OECD, 2014).

## **V. Conclusion**

The study established that judicial interventions have significantly influenced the capacity and autonomy of democratic institutions in Nigeria, and that this influence has been predominantly negative. The Independent National Electoral Commission's operational authority has been eroded, political parties' internal democratic capacity has been distorted toward litigation management rather than genuine member participation, and the judiciary itself has sustained self-inflicted institutional credibility damage through the inconsistency and controversy of its electoral adjudication.

The study also established that there is a significant relationship between judicial interventions and the peaceful transfer of political power, and that this relationship is uniquely double-edged: court-imposed power transfers disrupt the voluntary, consent-based character of democratic transitions and generate social conflict when judicial reasoning is opaque or arithmetically impossible, while simultaneously serving a paradoxical pacification function that has contributed to the survival of Nigeria's democratic system. Finally, the study established that there is a significant relationship between judicial interventions and constitutionalism and the rule of law, and that this relationship is the most profoundly negative of the dimensions examined in this paper: the selective application of constitutional principles, the exercise of judicial policymaking under the guise of constitutional interpretation, and the precedent crisis created by irreconcilable Supreme Court decisions collectively undermine the rule-of-law foundations of democratic governance in Nigeria.

## **VI. Recommendations**

In view of the findings of this study, the following recommendations are proposed;

1. The National Assembly should, through constitutional amendment, vest the power of appointing and removing judges in a genuinely independent judicial appointments commission insulated from executive control, and judicial remuneration should be constitutionally protected and charged to the Consolidated Revenue Fund to eliminate financial dependence on the executive.
2. The Independent National Electoral Commission should establish a specialised Electoral Litigation Division staffed by lawyers with deep expertise in electoral law, supported by a robust evidence management system capable of authenticating and defending the Commission's electoral records through the full hierarchy of dispute adjudication, and political parties should commit to genuine internal party democracy reforms that produce legitimately selected candidates through transparent and legally defensible primary processes.
3. The National Assembly should establish a dedicated Electoral Justice Court with exclusive jurisdiction over electoral disputes, expedited procedures, and mandatory written reasoning addressing the constitutional basis of every significant finding, supported by an independent Electoral Jurisprudence Monitoring Programme run by civil society organisations, while the international community incorporates judicial capacity assessment into its democratic governance support programmes in Nigeria.

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