

LEGAL AND INSTITUTIONAL FRAMEWORK ON JUDICIAL AUTONOMY IN NIGERIA

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Abstract

This paper critically examines the legal and institutional framework on judicial autonomy in Nigeria. The paper employs the use of doctrinal legal research methodology and reviews statutes, case law, and journal articles that pertain to the independence and autonomy of the judiciary in Nigeria. The findings reveal that while the legal and institutional frameworks, provides a strong normative foundation, enforcement is weak, due to challenges such as persistent executive interference with the delivery of judgments, appointment bias and inadequate funding of the judiciary. To address these challenges, the paper recommends the implementation of constitutional financial autonomy at the federal and state level, the bolstering of the judiciary's independence for unbiased adjudication, establishment of a regime of sanctions for non-compliance to constitutional provisions. The paper concludes that, protecting judicial autonomy is essential for a healthy democracy, as it ensures that the judiciary can act independently and impartially. By safeguarding the independence of the courts, we uphold the rule of law, protect individual freedoms, and hold the government accountable.

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1.0 INTRODUCTION.

In modern constitutional democracies, the idea that power should be shared is key.¹ In Nigeria, the constitution gives the courts the important job of settling legal issues and making sure the rule of law is protected. To do this effectively, the courts need to operate on their own, without anyone else interfering, this is called judicial autonomy. It's absolutely crucial for keeping the country's constitutional system strong and fair.²

Although Nigeria's Constitution guarantees judicial independence,³ the reality has been far more complicated. The courts often rely on the executive for funding, leaving them vulnerable to political influence. Interference in judicial appointments and administrative bottlenecks have also weakened their autonomy. This has resulted in strike actions by the Judiciary Staff Union of Nigeria, court battles, and public debate about whether the judiciary can function independently.⁴

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¹ Hakeem Olatunji Tijani and Nwachukwu, Lambert Chidi, "Judiciary and the Doctrine of Separation of Powers in Nigeria's Fourth Republic" (2024) Volume 12 No.2 December *Covenant University Journal of Politics & International Affairs*; 196-216.

² Section 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

³ Cap C23 CFRN 1999 (as amended).

⁴ Ibrahim Hassan-Wuyo, "Judiciary workers shut down courts in Kaduna, begin indefinite strike over unpaid entitlements" (Vanguard Newspaper) (October 27, 2025) <https://www.vanguardngr.com/2025/10/judiciary-workers-shut-down-courts-in-kaduna-begin-indefinite-strike-over-unpaid-entitlements/#google_vignette> accessed 24 November 2025.

This paper examines the legal and institutional framework on judicial autonomy in Nigeria; it examines the challenges that impede judicial independence and autonomy and proffers recommendations on the way forward. The paper is structured into seven parts. Part One deals with the introduction. Part two clarifies key concepts of discuss on the subject matter. Part three examines the legal frameworks for judicial autonomy. Part four examines the institutional frameworks for judicial autonomy. Part five identifies the challenges bedevilling judicial autonomy and independence in Nigeria. Part six proffers' recommendations to address the challenges espoused. Part seven, concludes the paper.

2. CONCEPTUAL CLARIFICATION.

2.1 Meaning of Judicial Autonomy:

According to Ocheme in an article, judicial autonomy refers to the independence of the judiciary from external influence, particularly from the executive and legislative branches. This autonomy is a cornerstone of democratic governance, as it ensures that the judiciary can function impartially and make decisions based on the law, not political pressure or personal interests.⁵

Thus, judicial autonomy simply means the freedom of the judiciary to do its work without outside interference. It is about judges and courts being able to decide cases fairly, run their affairs smoothly, and manage their finances without being controlled by politicians or other external forces. This independence is not one-facet, it covers decisional autonomy,⁶ administrative autonomy,⁷ and financial autonomy.⁸

⁵ Vivian Ocheme, "Separation of Powers and Judicial Autonomy: A Cornerstone of Democracy" <<https://speakoutafricainitiative.org/research/separation-of-power.pdf>> accessed 3 December 2025.

⁶ Freedom to rule impartially.

a. Decisional Autonomy

Decisional autonomy basically refers to judicial independence which implies that judges operate without fear or favour, free from pressure and inducement from the executive and legislative arms of government or litigants.

b. Administrative Autonomy

Administrative autonomy refers to the judiciary's ability to control its internal affairs without external influence.

c. Financial Autonomy

As the saying goes, "he who plays the pipe, dictates the tune". Financial autonomy thus refers to the ability of the judiciary to manage and disburse its own finances without reliance on or control by the executive. This would foster the ability of the judiciary to give unbiased judgments.⁹ All facets are thus sine qua non for the guarantee of independence and autonomy in the judiciary.

2.2 Meaning of Judicial Independence

According to Black's Law Dictionary, "judicial independence is defined as the state or quality of being independent, meaning the judiciary is not subject to the control or influence of another, particularly other branches of government or private interests".¹⁰ Judicial independence according to Britannica, is defined as the ability of courts and judges to perform their duties free of influence or control by other actors, whether governmental or private.¹¹ Judicial

⁷ Control over internal operations

⁸ ability to manage funds without executive dominance

⁹ Akaa IMbwaseh and Ors., "Unveiling the Hurdles to the Actualization of Judicial Autonomy in Nigeria" (2021) 10 *Benue State University Law Journal*; 1-26. <<https://bsum.edu.ng/journals/law/vol10/files/file6.pdf>> accessed 27 November 2025.

¹⁰ B.A. Garner, *Black's Law Dictionary* (9th Edition WEST: A Thomson Reuters business)

¹¹ Britannica, "Judicial Independence" <<https://www.britannica.com/topic/judicial-independence>> accessed 3 December 2025.

independence can thus be said to be a fundamental principle underpinning the rule of law and democratic governance.¹² Judicial independence can be viewed from two angles: the institutional level and the individual or personal level. At the institutional level, the Nigerian Constitution shields the judiciary by requiring that the courts remain distinct from the executive and legislative branches, in line with the principle of separation of powers.¹³

This is the practice as well in the United States of America; as Chief Justice Roberts reiterated separation of powers is what safeguards the judiciary's ability to operate independently.¹⁴ Justice Roberts posited that: 'Separation of powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic between and among the branches is not the only object of the constitution's concern. The structural principles secured by the separation of powers protect the individual as well.'¹⁵

International statutes like the UN Basic Principles on the Independence of the Judiciary implores every State to guarantee judicial independence and embed it in their Constitution; for it is the

¹² Ishie-Johnson Emmanuel and Oluwaleye Adedoyin Grace, "The Interdependence of Judicial Independence on Financial Autonomy: A Legal and Institutional Analysis within the Nigerian Context" <<https://thenigerialawyer.com/the-interdependence-of-judicial-independence-on-financial-autonomy-a-legal-and-institutional-analysis-within-the-nigerian-context/>> accessed 27 November 2025.

¹³ See *Stern v. Marshall*, 131 S. Ct. 2594, 2609 (2011). Cited in: Michael P. Seng, "What Do We Mean by an Independent Judiciary?" *Northern University Law Review*; Volume 38 Issue 1 Article 4 <https://digitalcommons.onu.edu/cgi/viewcontent.cgi?article=1120&context=onu_law_review> accessed 27 November 2025.

¹⁴ *Mistretta v. United States*, 488 U.S. 361, 371, 380-82 (1989)

¹⁵ See *Stern v. Marshall*, 131 S. Ct. 2594, 2609 (2011). Cited in: Michael P. Seng, "What Do We Mean by an Independent Judiciary?" *Northern University Law Review*; Volume 38 Issue 1 Article 4 <https://digitalcommons.onu.edu/cgi/viewcontent.cgi?article=1120&context=onu_law_review> accessed 27 November 2025.

foundational constitutional principle that allows the judiciary to carry out its role as a neutral and impartial protector of the rule of law.¹⁶

2.3. Judicial Independence vs. Judicial Autonomy.

Judicial independence and judicial autonomy are often used interchangeably, but they are not the same thing. Judicial independence is like a big shield that protects judges and the courts from being controlled by anyone outside the judiciary. Judicial autonomy, on the other hand, is about how the judiciary manages its own budget, resources, and staff, makes decisions, and handles its daily work without interference from the executive or other arms of government.

Judicial independence is the principle which stipulates and ensures that judges are not subjected to pressure and influence when adjudicating matters and are free to make impartial decisions based solely on fact and law.¹⁷ Judicial independence derives principally from sections 4, 5 and 6 of the Constitution of the Federal Republic of Nigeria 1999 (as amended),¹⁸ which establish the doctrine of separation of powers and vest judicial authority in the courts. This guarantee is strengthened by section 36(1), which mandates that every person is entitled to a fair hearing before an independent and impartial tribunal, and section 84(2)&(4), which protects the remuneration of judicial officers from

¹⁶ United Nations. *Basic Principles on the Independence of the Judiciary*. Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985, and endorsed by the UN General Assembly in resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985. Available at: <<https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>> accessed 28 November 2025.

¹⁷ Ononye, Ifeoma Uchenna, Oguekwe, Udoka Dennis & Oguekwe, Adaeze Udeze, “Independence of the Judiciary: The Nigerian Experience”(2020) Vol. 10 *Journal of Public and Private Law, UNIZIK*; 1 - 16

¹⁸ CFRN 1999 (As amended) Cap C23 LFN 2004

arbitrary reduction. The Supreme Court in *Attorney-General of the Federation v Abubakar* affirmed that the judiciary must remain insulated from political interference to discharge its adjudicatory duties effectively.¹⁹

Conversely, judicial autonomy focuses on the freedom the judiciary has to manage its own internal affairs without unnecessary external interference, particularly from the executive and legislative branches. This autonomy is a cornerstone of democratic governance, as it ensures that the judiciary can function impartially and make decisions based on the law, not political pressure or personal interests.²⁰

While judicial autonomy stems from and gives effect to judicial independence, the two differ in scope and purpose: independence is a constitutional safeguard, whereas autonomy is the practical freedom that enables the judiciary to manage its own affairs. Without autonomy, independence becomes largely theoretical because a judiciary that is financially or administratively dependent on the executive remains susceptible to subtle influence and pressure.²¹

The notion of judicial independence or autonomy according to Igwe and Igwenyi,²² is that the judiciary should be free to operate as an entity being a branch of government. It should be free in the sense of financial independence and freedom to recruit its staff and to take care of her welfare, and not being directed in the course of performing its

¹⁹ (2007) CLR 4(b) (SC)

²⁰ Fabien Gelin, “The Dual Rationale of Judicial Independence” in Alain Marciano (ed.), *Forthcoming in Constitutional Mythologies: New Perspectives on Controlling the State*, (New York: Springer, 2011); 1 – 21.

²¹ *ibid*

²² Chinedu Akam Igwe, and Benjamin O. Igwenyi, “Protecting Judicial Independence, Autonomy and Accountability in the States of the Federation” (2023) Volume 3(1) *Redeemer’s University Nigeria, Journal of Jurisprudence & International Law (RUNJJIL)*; 1 -18.

functions by any of the other two arms of government, or any other person in the country. The judicial independence is subject to the doctrine of separation of powers and checks and balances which oil the engine of governments.²³ Thus, autonomy without independence would leave a technically self-managed judiciary exposed to external coercion.²⁴ Nigerian jurisprudence therefore affirms that both principles must coexist for the judiciary to function as an effective guardian of the rule of law.

3. LEGAL FRAMEWORK FOR JUDICIAL AUTONOMY IN NIGERIA

3.1 Constitutional Framework

The 1999 Constitution of the Federal Republic of Nigeria (as amended) remains the primary source of judicial autonomy.

3.1.1 Separation of Powers (Sections 4, 5, 6)

Section 6 of the Constitution vests judicial powers in the courts.²⁵ This ensures that adjudicatory powers are not exercised by the executive or legislature. In *Lakanmi v Attorney-General Western Region*,²⁶ the Supreme Court reaffirmed the exclusivity of judicial powers and invalidated executive decrees that usurped judicial authority.

3.1.2. Appointment and Discipline of Judicial Officers (Section 153; Paragraph 21, Part I, Third Schedule):

The Constitution establishes the National Judicial Council (NJC) as an independent body responsible for recommending judicial appointments; exercising disciplinary control; regulating judicial conduct. Section 158(1) provides that in exercising its powers, the

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ (1971) 1 UILR 201.

²⁶ CFRN 1999, s 158(1).

NJC “shall not be subject to the direction or control of any other authority or person.”⁴ This provides crucial protection for judicial autonomy. The case of *Elelu-Habeeb v Attorney-General of the Federation*²⁷ affirmed that no Chief Judge may be removed without the input of the NJC, thereby reinforcing institutional independence.

3.1.3. Financial Autonomy (Section 81(3) and Section 121(3))

Section 81(3) provides that funds for the federal judiciary are charged directly on the Consolidated Revenue Fund of the Federation. Section 121(3) similarly secures financial autonomy for state judiciaries by requiring that their recurrent and capital expenditures be paid directly from the Consolidated Revenue Fund of the state.²⁸

The case of *Olisa Agbakoba v Attorney-General of the Federation*,²⁹ established that, in line with the Nigerian Constitution (specifically sections 81(2) and 84(1), (2), (3), (4), and (7) of the 1999 Constitution, as amended), the funds for the judiciary are a guaranteed "First Charge" on the Consolidated Revenue Fund of the Federation and should not be part of the executive's appropriation bill. The court ordered that the funds be released in full directly to the National Judicial Council (NJC) for disbursement, thereby asserting the judiciary's financial autonomy.

3.1.4. Security of Tenure

In the Constitution of the Federal Republic of Nigeria 1999, as amended, Sections 271 and 292 establishes the appointment and the basis of tenure, as well as, the removal from office and security of tenure of judicial officers; a process which the NJC is involved in to ensure the independence of the judiciary.

²⁷ (2012) 13 NWLR (Pt. 1318) 423.

²⁸ CFRN 1999, s. 81(3), 121(3).

²⁹ (2010) 1 NWLR (Pt. 1200) 199

Section 271: Appointment and the Basis of Tenure

Section 271 sets out how the Chief Judge and other Judges of a State High Court are appointed. “The Chief Judge is chosen by the State Governor on the recommendation of the National Judicial Council and must be confirmed by the State House of Assembly. Other Judges are appointed by the Governor solely based on the NJC’s recommendation. To qualify, a candidate must have at least ten years of experience as a legal practitioner in Nigeria. If the office of Chief Judge is vacant, the Governor may appoint the most senior judge to act in the role, but this can last only three months unless the NJC recommends otherwise.”

Section 292: Removal from Office and Security of Tenure

Section 292 sets out the constitutionally prescribed process for removing judicial officers, ensuring they can serve until their mandatory retirement age. “Heads of Court may be removed by the Governor or the President for federal courts, only following an address supported by a two-thirds majority of the relevant legislature. Removal can occur on grounds such as inability to perform duties due to infirmity, misconduct, or violation of the Code of Conduct. Other judicial officers can be removed by the President or Governor solely on the recommendation of the NJC.” This strict process, requiring either a supermajority in the legislature or the NJC’s recommendation, prevents arbitrary executive action and protects the independence of the judiciary.

3.2 Statutory Instruments

3.2.1 National Judicial Council Act

The National Judicial Council derives its operational powers from the NJC Act, which strengthens its structural and administrative independence. The Act grants the Council legal personality, enabling it

to manage its own affairs without executive interference and bolstering its role in protecting judicial independence.³⁰

Through the Act and its Appointment and Selection Guidelines, the NJC institutionalizes a transparent, merit-based process for judicial appointments for candidates based on integrity, competence.³¹ The NJC Act also governs judicial discipline and removal, ensuring no judge can be removed or sanctioned without due process being followed.

Financial autonomy is another key feature of the NJC Act. The NJC manages funds for judicial salaries, welfare, and court administration, preventing the executive from exerting control through financial dependence.³²

3.2.2. Judicial Officers (Salaries and Allowances) Act

The Judicial Officers' Salaries and Allowances Act enhance judicial independence in Nigeria, by virtue of its provisions which guarantee salaries, allowances, and post-retirement benefits of judges, thus ensuring that judges³³ are not susceptible to external pressures that could compromise impartiality or integrity.³⁴

As laudable as the provisions of the Act are, it is not without challenges. For example, in some states, judicial officers do not

³⁰ National Judicial Council Act, s. 1.

³¹ *Ibid.*

³² *Ibid.* see also sections 12 – 27.

³³ It covers all judicial officers, including those of the Supreme Court, Court of Appeal, and High Courts, providing fixed remuneration that cannot be reduced during tenure. Beyond salaries, it includes allowances for housing, transportation, and other official needs, supporting both professional duties and personal welfare. These measures reduce dependency on external sources.

³⁴ See the case of: *Okonkwo v. Attorney-General of Enugu State* (2010) LPELR-21056(CA); wherein the court held amongst others that the statutory entitlements of judges are enforceable rights and any interference with these entitlements impedes the integrity of the judiciary.

receive their salaries and allowances on time, and the differences in allowances from one jurisdiction to another often leave officers feeling that the system is unfair.

3.2.3. Sheriffs and Civil Process Act

The Sheriffs and Civil Process Act play an essential role in how civil judgments are enforced in Nigeria. The Act provides the legal structure that ensures court decisions are carried out in practice³⁵ not just in theory; it outlines the powers and duties of sheriffs and other officials responsible for executing court orders,³⁶ helping to maintain the authority of the courts and uphold the rule of law. Its provisions safeguard both the authority of the judiciary and the rights of the parties,³⁷ thereby reinforcing public confidence in the legal system and ensuring that justice delivered by the courts translates into practical outcomes.

3.2.4. Executive Order No. 10 (2020)

The Executive Order No. 10 of 2020 (“EO 10”)³⁸ was signed by President Muhammadu Buhari on 22 May 2020, formalizing a programme to grant financial autonomy to state legislatures and state judiciaries.³⁹ The Order was premised on the President’s constitutional power under Section 5 of the 1999 Constitution, which empowers him to “execute and maintain” the Constitution, and was explicitly tied to the then-recent constitutional amendment of Section 121 (3), which had guaranteed that amounts standing to the credit of state legislatures

³⁵ See: *Nigerian Bottling Co. Ltd v. Olumide* (2005) 10 NWLR (Pt. 943) 123.

³⁶ SCPA 2004, S.1.

³⁷ Sheriffs and Civil Process Act, 2004, Sections 1, 3, 4, 5, 7.

³⁸ Implementation of Financial Autonomy for State Legislature and State Judiciary Order, 2020

³⁹ Federal Ministry of Information, President Buhari signs Executive Order on Financial Autonomy of State Legislature, Judiciary, press release (22 May 2020). <<https://fmino.gov.ng/president-buhari-signs-executive-order-on-financial-autonomy-of-state-legislature-judiciary/>> accessed 25 November, 2025.

and judiciaries in the Consolidated Revenue Fund of each state should be paid directly to them.⁴⁰

Under EO 10, the President mandated that allocations appropriated for the state legislature and judiciary in each state's annual budget shall be made a "first-line charge" on the state's Consolidated Revenue Fund.⁴¹ This means that these allocations are to be treated as top priority deductions, before other payments. The objective was to ensure that funds meant for these arms are not subordinated or controlled by the state executive, thereby strengthening their institutional independence. To enforce compliance, the Order empowers the Accountant-General of the Federation, in consultation with the Attorney-General of the Federation, to deduct from the Federation Account allocations to any state that fails to release the requisite funds for its legislature and judiciary.⁴²

A key problem with Executive Order No. 10 (2020) was the question of its constitutionality. Critics argued that the President went beyond his powers by dictating how states should run their budgets. This dispute eventually led to case SC/655/2020, where the Supreme Court, in a 6–1 decision, struck down the Order as unconstitutional for overstepping federal boundaries and imposing obligations on states that the President had no authority to create. Although the lone dissent argued that EO 10 merely aimed to give effect to the financial autonomy already guaranteed by Section 121(3), the ruling made it

⁴⁰Femi Owolabi, "IN DETAIL: Executive order on financial autonomy for state judiciary, legislature" (May 27, 2020) <<https://fmimo.gov.ng/president-buhari-signs-executive-order-on-financial-autonomy-of-state-legislature-judiciary/>> accessed 25 November, 2025.

⁴¹ *Ibid.*

⁴² *Ibid.*

clear that enforcing such autonomy must come from legislation, not presidential directives.⁴³

3.3. International and Regional Instruments

3.3.1. United Nations Basic Principles on the Independence of the Judiciary (1985)

The UN Basic Principles on the Independence of the Judiciary endorsed by the UN General Assembly, set global standards for protecting judicial autonomy. The principles emphasize that judges must be able to make decisions free from interference and are entitled to secure tenure, adequate remuneration, and protection from pressure by the executive or legislature. These principles underline the judiciary's central role in safeguarding the rule of law and upholding human rights.⁴⁴

The principles also outline key guarantees such as institutional independence, fair and transparent judicial appointments, proper conditions of service, judicial immunity, and clear standards for discipline and removal. UN bodies, like the Human Rights Committee, have expanded their interpretation over time. For instance, General Comment No. 32 affirms that the independence, competence, and impartiality of courts is an absolute right that cannot be limited under any circumstances.⁴⁵

⁴³ Sam Amadi, "Executive Order 10 of 2020 is Dangerous to Constitutional Democracy" (The Cable) (June 12, 2020) <<https://www.thecable.ng/executive-order-10-of-2020-is-dangerous-to-constitutional-democracy/>> accessed 29 November 2025.

⁴⁴ United Nations Special Rapporteur, "Report on the UN Basic Principles on the Independence of the Judiciary" <<https://independence-judges-lawyers.org/supplementing-the-un-basic-principles-on-the-independence-of-the-judiciary/>> accessed 29 November 2025.

⁴⁵ *Ibid.*

However, contemporary threats such as transnational corruption, organized crime, and the growing need to incorporate modern ethical standards like those in the Bangalore Principles were not addressed in the original 1985 text. These evolving challenges suggest that the principles may need to be updated and strengthened to ensure they continue to provide effective protection for judicial independence in today's world.⁴⁶

3.3.2 International Covenant on Civil and Political Rights (ICCPR, 1966)

The International Covenant on Civil and Political Rights provides that every person has a right to fair hearing before an independent and impartial court.⁴⁷ This place a responsibility on the courts to ensure that proceedings are fair and credible.

3.3.3 United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012)

The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems supports legal aid as a means of ensuring access to justice. The guidelines emphasize that fair trials depend on both competent legal counsel and independent courts.

3.3.4 African Charter on Human and Peoples' Rights (ACHPR, 1981)

The African Charter on Human and Peoples' Rights guarantee the right to a fair trial, equality before the law,⁴⁸ and requires States to ensure access to justice through competent and independent courts.

⁴⁶ *Ibid.*

⁴⁷ ICCPR 1966, Article 14.

⁴⁸ ACHPR 1981, Article 7 and 26.

3.3.5 African Charter on the Values and Principles of Public Service and Administration (2001)

The African Charter on the Values and Principles of Public Service and Administration supports institutional autonomy, including that of the judiciary, by promoting professionalism, impartiality, and accountability within public institutions.⁴⁹

3.3.6 Protocol on the Statute of the African Court of Justice and Human Rights (2008)

The Protocol on the Statute of the African Court of Justice and Human Rights established the African Court of Justice and Human Rights, a regional court with independent judicial authority.⁵⁰

3.3.7 European Charter on the Statute for Judges (1998)

The European Charter on the Statute for Judges, though not binding in Africa, serves as an international benchmark for promoting independent, impartial, and effective judiciaries around the world.⁵¹

4. INSTITUTIONAL FRAMEWORK FOR JUDICIAL AUTONOMY

4.1 National Judicial Council (NJC)

The National Judicial Council is one of the Federal Executive Bodies established under Section 153 of the 1999 Constitution of the Federal Republic of Nigeria; created to safeguard the independence of the judiciary by safeguarding it from executive influence, which is essential for the functioning of a democratic government.⁵² Section

⁴⁹ African Union, *African Charter on the Values and Principles of Public Service and Administration*, 2001.

⁵⁰ African Union, *Protocol on the Statute of the African Court of Justice and Human Rights*, 2008.

⁵¹ Council of Europe, *European Charter on the Statute for Judges*, 1998.

⁵² National Judicial Council, “Strengthening Judicial Independence” <<https://www.njc.gov.ng/index.php>> accessed 29 November 2025

158(1) of the Constitution expressly provides that the NJC shall not be subject to the direction or control of any other authority in exercising these powers, thereby reinforcing its role as a guardian of judicial independence.⁵³

Paragraph 20 of Part I of the Third Schedule outlines its composition, which includes the Chief Justice of Nigeria as Chairman, senior Justices of the Supreme Court and Court of Appeal, heads of key federal courts, rotating Chief Judges and Kadis from the states, members of the Nigerian Bar Association, and two non-lawyers of unquestionable integrity.⁵⁴

The Constitution further defines the core functions of the NJC under Paragraph 21 of Part I of the Third Schedule. These powers include recommending to the President and State Governors suitable persons for appointment to superior courts of record and advising on the removal and discipline of judicial officers at both federal and state levels. The NJC also exercises disciplinary control over judicial officers and ensures that appointments are based on merit and free from political interference.⁵⁵

Judicial decisions have affirmed the constitutional status and independence of the NJC. In *Nwaogwugwu v. President F.R. N*⁵⁶ and

⁵³ “Duties and Powers of The National Judicial Council (NJC)” (October 25, 2016) <<https://legalnaija.com/duties-and-powers-of-national-judicial/>> accessed 29 November 2025

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ The Honourable Court in *Nwaogwugwu v. President F.R.N.* (2007) ALL FWLR (Pt. 358) 1327 at 1356, paras D – F (CA), held that the National Judicial Council is a creation of the Constitution. Its traditional role is as defined by the Constitution and it includes inter alia to make appointments and to exercise disciplinary control over judicial officers.

*Opene v. NJC*⁵⁷, the courts emphasized that the NJC's functions including appointments and disciplinary control are constitutionally protected.

In addition to its appointment and disciplinary functions, the NJC is responsible for controlling and disbursing all funds designated for the judiciary. It advises the President and Governors on judicial matters, oversees the administration and staffing of the Council itself, and addresses broad issues of judicial policy and administration. These responsibilities underscore its central role in maintaining the financial and administrative autonomy of the judiciary.⁵⁸

4.2 Judicial Service Commission

The Judicial Service Commissions acts as the guardians of our justice system, ensuring that fairness and integrity not only exist but truly thrive within the judiciary at both the federal and state level.⁵⁹ At the federal level, the commission works hand in hand with the National Judicial Council, supporting the federal courts and ensuring that judges are chosen based on merit, not politics.⁶⁰ At the state level, each State Judicial Service Commission takes care of its own judiciary handling appointments, discipline, and the everyday running of the courts.⁶¹

⁵⁷ In the case of *OPENE v. NJC & ORS.* (2011) LPELR-4795(CA) further held that Section 158 (1) of the Constitution has clearly provided that the National Judicial Council (NJC) shall not be subject to the direction and control of any other authority in exercising its power to make appointments or to exercise disciplinary control over judicial officers.

⁵⁸ *Ibid.*

⁵⁹ Section 153 (1) of the Constitution of Nigeria of 1999. See also: Erugo, S.; Adekoya, C.O., *Lawyer With Integrity: Essays In Honour of Ernest Ojukwu, SAN.* (2018), p. 328. ISBN 978-1-387-82457-1.

⁶⁰ *Ibid*

⁶¹ *Ibid*

Together, the federal and state judicial service commission strengthen the structural foundations of judicial independence by insulating the judiciary from undue executive interference and ensuring merit-based appointments, ethical discipline, and efficient court administration.⁶²

4.2.1 Federal Judicial Service Commission

The Federal Judicial Service Commission is one of the fourteen Federal Executive Bodies established under Section 153(1) (e) of the 1999 Constitution of the Federal Republic of Nigeria. Its composition, as provided in Paragraph 12 of Part I of the Third Schedule, brings together key judicial and legal figures.⁶³ These include the Chief Justice of Nigeria as Chairman, the President of the Court of Appeal, the Attorney-General of the Federation, heads of key federal courts, two seasoned legal practitioners recommended by the Nigerian Bar Association, and two non-lawyers of unquestionable integrity appointed by the President.⁶⁴

The Constitution defines the functions of the FJSC in Paragraph 13 of Part I of the Third Schedule. The functions include amongst others to: advise the National Judicial Council in selecting suitable candidates for appointment to top judicial offices such as the Chief Justice of Nigeria, Justices of the Supreme Court and Court of Appeal, Judges of the Federal High Court and National Industrial Court, and members of the Code of Conduct Tribunal. It also has the responsibility of recommending the removal of these judicial officers where necessary, thereby playing a crucial role in maintaining judicial accountability.⁶⁵ Additionally, the FJSC oversees the administrative cadre of the federal judiciary by appointing, dismissing, and disciplining Chief Registrars,

⁶² *Ibid.*

⁶³ Federal Judicial Service Commission “About us” <<https://fjsc.gov.ng/about-us/>> accessed 3 December 2025

⁶⁴ *Ibid*

⁶⁵ *Ibid*

Deputy Chief Registrars, and other staff of the Judicial Service of the Federation not otherwise assigned by the Constitution. Through these functions, the Commission supports both the independence and efficient operation of the federal judiciary.⁶⁶

4.2.2 State Judicial Service Commissions

State Judicial Service Commission is one of the State Executive Bodies created by virtue of Section 197 part II (C) of the 1999 Constitution of the Federal Republic of Nigeria, as amended.⁶⁷ Its goals include promoting an independent and preferred judiciary, strengthening adherence to the rule of law, ensuring financial autonomy, and building a proactive judicial system staffed by officers and personnel of integrity and high moral character.⁶⁸

The Commission's constitutional powers primarily involve advising the National Judicial Council on suitable candidates for appointment as Chief Judge of the State, Grand Kadi, President of the Customary Court of Appeal, and Judges of the State High Court and other superior courts of record. It may also recommend the removal of these judicial officers where necessary. Additionally, the JSC is empowered to appoint, discipline, and dismiss key judicial personnel, including Chief Registrars, Magistrates, Area Court Judges, and other judicial staff not otherwise covered by the Constitution.⁶⁹

Beyond its constitutional mandates, the JSC also performs key administrative and managerial functions vital to the smooth operation of the State Judiciary. It formulates and implements judicial policies

⁶⁶ *Ibid*

⁶⁷ Nasarawa State Judicial Service Commission, "Who we are – Brief Profile of Judicial Service Commission" <<https://nsjsc.org.ng/about-us/index-1.php>> accessed 3 December 2025

⁶⁸ *Ibid*.

⁶⁹ *Ibid*

aimed at driving institutional growth, harmonises the capital and recurrent budgets of the various courts, and is developing a performance evaluation system for magistrates and staff to enhance efficiency and promote timely justice delivery. Through these functions, the Commission plays a central role in sustaining a strong, autonomous, and credible judiciary at the state level.

4.3. National Judicial Institute

The National Judicial Institute is Nigeria's premier institution for the continuing education, training, and professional development of judicial officers and court staff. It was established under the National Judicial Institute Act of 1991.⁷⁰

The Institute is managed by a Board of Governors, which is composed of the Chief Justice of Nigeria as Chairman, Attorney-General of the Federation and Minister of Justice, the most Senior, Justice of the Supreme Court, President of the Court of Appeal, Chief Judge of the Federal High Court, Chief Judges of all the 36 States and the Federal Capital Territory, two Grand Kadis of Sharia Courts of Appeal and two Presidents of Customary Courts of Appeal, respectively, among other members.⁷¹

5. CHALLENGES UNDERMINING JUDICIAL AUTONOMY IN NIGERIA

5.1 Corruption in the Judiciary

Corruption impacts every facet of the Nigerian economy. The Nigeria Judiciary has had and is still counting its own ugly fair share of the cankerworm. In *Ukachukwu v Ugochukwu*,⁷² two justices of the Court of Appeal were investigated and proven to have taken bribes

⁷⁰National Judicial Institute, "About National Judicial Institute" <<https://nji.gov.ng/about.php>> accessed 3 December 2025

⁷¹*Ibid*

⁷² [2005]18 NWLR (pt. 956)1

amounting to N27,000,000.00 and other unascertained sums of money in three “Ghana-must –Go” bags all in relation to the appeal before them. Consequent upon the report of the Committee of the National Judicial Council that investigated the allegation and the recommendation of the National Judicial Council to the President, the latter dismissed the two justices from Judicial Service.⁷³ The recent Ex Parte Orders emanating from Courts of Coordinate jurisdiction over the same subject matter are no less probable examples of incompetence and corruption in the judiciary.

5.2 Interference by the Executive Arm of Government

The executive arm of the government has wittingly or unwittingly pushed judicial officers to:

“... a precarious situation wherein they are exposed to potential intimidation, threat, harassment or incessant arrest for any alleged act or conduct carried out in discharging their judicial functions... without following the due process/procedure”⁷⁴

In *AG Cross River State v FRN*,⁷⁵ the Chief Justice of Nigeria was suspended from office upon an Ex Parte Order⁷⁶ of the Code of Conduct Tribunal on alleged non-declaration of assets. The suspension eventually led to the exit of the CJN from office. Again, in *Elelu-*

⁷³ Hon. Justice Chidi Nwokorie was also dismissed for reversing the decision of the Court of Appeal while sitting as a Federal High Court Judge in Katsina State over a case that originated from Imo State. *The Nation*, March 12, 2009, 15. Cited in: Chinedu Akam Igwe, and Benjamin O. Igwenyi, “Protecting Judicial Independence, Autonomy and Accountability in the States of the Federation” (2023) Volume 3(1) *Redeemer’s University Nigeria, Journal of Jurisprudence & International Law (RUNJJIL)*; 1 -18.

⁷⁴ *Naniwa v NJC* [2018] 4 NWLR (pt 1609) 301 349 per Obsaeki-Adejumo JCA

⁷⁵ [2019] 10 NWLR (pt 1681) 401. The Supreme Court declined jurisdiction to determine the suit on merit.

⁷⁶ CCT/ABJ/01/19 *FRN v Hon. Justice Walter Samuel Nkanu Onnoghen*

*Habeeb v AGF*⁷⁷ the House of Assembly of Kwara State through a letter invited the Chief Judge of the State to appear at its plenary session to answer to various allegations of misconduct. Without opportunity to the Chief Judge to defend herself, she was unceremoniously removed from office.⁷⁸ Similarly, in *AG Lagos State v AGF*⁷⁹ the Supreme Court affirmed the Constitutionality of the creation of new Local Government Areas by Lagos State Government and declared as unconstitutional the Federal Government action in withholding the funds due to the Local Government Areas in Lagos State.

Falana has also criticised the actions of the executive, for example, with respect to the purchase of houses and cars by the executive for judicial officers by the executive, Falana stated that it ran contrary to the independence of the judiciary as provided for by relevant provisions of the 1999 Constitution and the extant decisions of the courts. According to him:

“There are no provisions in the law for a Minister of the Federal Capital Territory to gift houses and cars to federal judges whom he has cases in front of. It goes against the financial independence of the judiciary which is enshrined in our constitution.”

“If the government wishes to give houses and cars to judges, they can write the National Assembly to make provisions for it and send the funds to the National Judicial Council empowered to appropriate the funds as required.”⁸⁰

⁷⁷ [2012] 13 NWLR (pt 1318) 423

⁷⁸ *ibid*

⁷⁹ [2005] All FWLR (pt. 244) 805

⁸⁰ “Benefits, dangers of full financial autonomy for judiciary, by SANS” (November 28, 2024) <<https://www.vanguardngr.com/2024/11/benefits-dangers-of-full-financial-autonomy-for-judiciary-by-sans/>> accessed 5 December 2025.

5.3 Inadequate Funding of the Judiciary

The judiciary is greatly underfunded. This is the reason why there are evidences of the executive, (which is saddled with the power to allocate resources/revenue amongst the three arms of government) retaining monies and then making gifts of facilities, cars, houses, etc., to the judiciary. This act plays a great influence on the judiciary and ought to be the responsibility of the judiciary itself or the NJC.⁸¹

According to Igwe, and Igwenyi, Nigerian judges are poorly remunerated. In a country with soaring corruption perception, insecurity and pandemic, judicial officers being the custodian of justice, equity and equality before the law ought to earn above temptation wage. Except judicial officers are well remunerated and their remuneration regularly reviewed upwards to meet the changing economic realities, the judges will remain vulnerable and the temptation to accept bribe in foreign currency rather than rely on paltry living wage may become endemic in the last hope of a common man institution.⁸²

5.4 Political Influence in Judicial Appointments

Appointment of judges, though the role of the National Judicial Council is often affected by political influence, ethnic and religious considerations, making career advancement somewhat dependent on political loyalty.⁸³ This dependency automatically impairs the ability of judges to adjudicate on issues brought before it without bias and favouritism.

⁸¹ *Ibid.*

⁸² Chinedu Akam Igwe, and Benjamin O. Igwenyi, "Protecting Judicial Independence, Autonomy and Accountability in the States of the Federation" (2023) Volume 3(1) *Redeemer's University Nigeria, Journal of Jurisprudence & International Law (RUNJJIL)*; 1 -18.

⁸³ Agathus Chibuike Mgbahuruike, "Broken Trust: Why the Nigerian Judiciary Must Win Back the People" (10 September 2025) <<https://www.cddwestafrica.org/blog/broken-trust-why-the-nigerian-judiciary-must-win-back-the-people/>> accessed 5 December 2025.

5.5 Weak Enforcement of Constitutional Guarantees

The Nigerian Constitution fails to provide any penalty for the violations of Sections 81(3) and 121(3) on judicial financial autonomy.⁸⁴ Thus, there are no consequences meted on violators, be it the state government or federal government.

5.6 Limited Public Understanding of Judicial Independence

Limited understanding of judicial independence by the misinformation and false claims that the court system is corrupt. Thus, eroding trust and public support for autonomy; as a uniformed public cannot distinguish between a legitimate judicial decision and a decision based of undue or unlawful influence.

6. PATHWAYS FOR STRENGTHENING JUDICIAL AUTONOMY

6.1 Full Implementation of Financial Autonomy

One of the ways by which judicial autonomy can be strengthened is by implementing full financial autonomy of the judiciary as provided under Section 121 (3) of the Constitution. The judiciary should get its funds directly from the Central Bank of Nigeria. States governments should be made to uphold and comply religiously with the provisions of section 121(3) of the Constitution 1999 which provides that “any amount standing to the credit of the Judiciary in the consolidated revenue fund of the state shall be paid directly to the heads of court concerned.” This will ensure the availability of funds to the judiciary for the maintenance of the Courts and the facilities. Any State government which fails to comply with the above provision should be penalised.⁸⁵

⁸⁴ Constitution, ss. 81(3), 121(3).

⁸⁵ Ononye Ifeoma Uchenna, Oguekwe Udoka Dennis & Oguekwe Adaeze Udeze, “Independence of the Judiciary: The Nigerian Experience” (2020) Vol. 10 *Journal of Public and Private Law*; 75 -76.

6.2 Non-interference with Appointments of Judges

The appointment of judges should be done without interference by the other arms of government, or political elite, but based on intellectual ability, strong character and integrity. This will help reduce the recurring allegations of bribery, corruption, and undue external influence levelled against some judges.⁸⁶ The National Judicial Council, as well as the Judicial Service Commission at the federal and state level should be strengthened and equipped in the carriage of their roles and responsibilities without executive interference.⁸⁷

6.3 Promoting Transparent Decision-Making

The judiciary is regarded as the last hope of the common man and as such it is imperative that judgments be transparent and based strictly on legal principles and evidence.

6.4 Strengthening Ethical Standards and Accountability

Good ethics and obedience to the rules of professional conduct by members of the legal profession must be strengthened. Acts of corruption, abuse, delay and meddling in the administration of justice must be discouraged by ensuring the provision of penalties to violators.⁸⁸ Instances where courts of concurrent jurisdiction adjudicate on the same case, in a bid to take undue advantage of the judiciary must be frowned upon and lawyers who are responsible for abusing judicial processes with frivolous applications disciplined.

⁸⁶ *Ibid.*

⁸⁷ *Elelu-Habeeb v. Attorney-General of the Federation* (2012) 13 NWLR (Pt. 1318) 423.

⁸⁸ C. I. Alozie, "Role of the Judiciary in Shaping Policy and Upholding the Rule of Law in Nigeria: Challenges and Prospects" (2025) 9 (3) *Socialscientia: Journal of Social Sciences and Humanities*, <<https://journals.aphriapub.com/index.php/SS/article/view/2979>> accessed 6 December 2025.

6.5 Improving Welfare and Conditions of Service

Salaries, welfare and condition of service for judicial officers should be improved and disbursed as at when due. This would stem the tide of corruption and bribery in the judiciary.

6.6 Capacity Building

Investments in judicial training, technological tools, and staff expansion are necessary to address capacity complaints and foster capacity building. Providing judges and court management staff with specialized training in areas such as technology law, environmental law, and complex financial cases would improve and ensure competence and effective service delivery.⁸⁹

6.7 Civic Engagement

Awareness programs must be carried out to educate the masses about their legal rights and the judiciary's role in upholding the rule of law,⁹⁰ this would go a long way in promoting trust between the masses and the judiciary.

6.7 Fostering Political Commitment

As posited by Alozie in his article, true autonomy requires the political will of all arms of government to comply with the constitutional provisions and court judgments that guarantee judicial independence.⁹¹

6.9 Security of tenure

⁸⁹ *Ibid.*

⁹⁰ J. Goodluck, "The judiciary as a pivot for good governance" *FCT High Court of Justice, Abuja*, pp. 1–19.

⁹¹ C. I. Alozie, "Role of the Judiciary in Shaping Policy and Upholding the Rule of Law in Nigeria: Challenges and Prospects" (2025) 9 (3) *Socialscientia: Journal of Social Sciences and Humanities*, <<https://journals.aphriapub.com/index.php/SS/article/view/2979>> accessed 6 December 2025.

This is very crucial. Once appointed, a judge is entitled to serve on the bench until the age of retirement, unless, where an independent tribunal established for that purpose has ordered that a judge be removed from office upon proof of an allegation of misconduct against him.⁹²

7. CONCLUSION

The judiciary arm of government holds an indispensable position as a protector of constitutional governance and promoter of the rule of law. Despite its potential, the judiciary faces significant challenges, including compromised autonomy, corruption, and capacity constraints, which hinder its ability to uphold the rule of law and shape governance effectively.

Protecting judicial autonomy is essential for a healthy democracy, as it ensures that the judiciary can act independently and impartially. By safeguarding the independence of the courts, we uphold the rule of law, protect individual freedoms, and hold the government accountable. Hence, the above challenges are an impediment to the autonomy and independence of the judiciary.

A judiciary that lacks autonomy and public confidence cannot adequately perform its role as a neutral arbiter or ensure justice and policy alignment with democratic ideals. To address these issues, an array of recommendations has been proffered. These recommendations, if implemented, will not only strengthen the judiciary's capacity but also enhance its role as a cornerstone of democracy and governance in Nigeria.

⁹² Uchenna et al. (n85).