



## RELEVANCE OF HABERMAS AND THE COURSES OF DELAY IN DISPENSATION OF JUSTICE IN NIGERIA

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### Abstract

**H**uman societies are governed and controlled by some social laws which help in moulding human behavior to be in line with the societal norms and values. Consequently, in the course of their interaction therefore, because of the complexity of human being, society is faced with multiple of social

problems which eventually forced human being to think of some possible solutions to the problems facing society at that time so

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that the community can coexist peacefully with each other as members of that community.

### INTRODUCTION

**O**ne of the commonest problems of society is “crime” which Durkheim (1840) said “crime is not only necessary but also inevitable for society to progress”. The concept of crime has to do with the violation of criminal code of the state which made it possible for certain social control mechanisms to be invented to tackle such problems.

Consequently, the procedures for combating those problems may not be sufficient if the process of administration of justice was not in place. Though the word “justice” is a relative concept, for what is conceived to

be justice at one time in a particular society may not be the same at another time in some other societies or even in some part of the same society, thus justice differs depending on the legal system in operation or the geographical location and the orientation each member had in their respective domain. The reasons for the difference were because of the nature and features of each society as well as the influence which the process of social change has on such society.

Furthermore, the process of dispensation of justice in Nigeria can be analyzed within the context of judicial proceedings which includes police arrest, summon, legal aid, prosecution and conviction. Nevertheless, for the sake of this research work the interest of the researcher on the roles of courts in dispensation of justice this is because the concept of judicial proceedings has to do with the processes of hearing and dispensing of cases in courts.

Lastly, the Nigerian judiciary has been widely criticized by so many Nigerians for alleged delay in dispensing justice to the citizens of the country (Akambi, 2005, human rights watch, 2011, Fryna, 2001). There was also recent criticism by the media on the poor performance of the judiciary and the corruption charges labeled against some prominent judges of the country's apex court who are currently facing trial in courts.

### **BACK GROUND ON HISTORY OF NIGERIA**

Nigeria was formerly a British colony from 19<sup>th</sup> to 20<sup>th</sup> century. The British occupation of the area presently known as Nigeria begun in 1800 and subsequent occupation of Lagos in 1851, Lagos was later crowned the colony of Lagos by the British colonial masters in 1861. The consolidation of the British rule in the Niger area was possible in the 19<sup>th</sup> centuries when the northern part of the present Nigeria came under the British rule in 1885. Between 1889 and 1899 all the major part of northern part of the present day Nigeria was already under the control of the Britain. In 1906 the colony of Lagos and the protectorate of southern present Nigeria were merged together under one administrative unit. Moreover, in 1914, the northern protectorate and the southern protectorate were merged together under one administrative unit with Sir Lugard as the first Governor General of Nigeria. British colonial rule in Nigeria lasted till 1960 when the country gained independence from the Britain. Although,

Nigeria was granted independence in 1960 but the country remained a commonwealth realm with the Queen of England as still the titular head of state until 1963 when Nigeria had a constitution which declared Nigeria as Republic and an independent nation from Britain.

Furthermore, Nigeria occupied a total land mass of 923,768 square kilometers bound to the west by Benin republic, to the north by the Niger Republic and Chad, east by the republic of Cameroon, and south by Gulf of Guinea. The country has population of 170 million people which makes it the most populous black race in the world. Nigeria has thirty six states and seven hundred and seventy four local government areas.

### **NIGERIAN NATIONAL DEVELOPMENT IN THE 20<sup>TH</sup> AND 21<sup>ST</sup> CENTURIES**

One of the priorities of any nation is to attain or achieve a reasonable level of development that would be beneficial to its citizens and attract foreign investors into the country. However, the concept “development” is a relative word, the definition of it depends largely on the individual perception and understanding of what the concept really means.

Therefore, Gboyega, (2003) sees development as the process of improving the living standard of the people. The process must cover the entire social life of the people ranging from transforming their living condition, health and all infrastructural development of the entire society. However, according to him for any sustainable development to take place power and inequality must be reduced at least to its minimal to allow individuals have access to quality well being.

Noami, (1995) states that, development is not restricted to only economic growth but rather it involves the provision and distribution of quality health care , education, housing and other essential basic amenities that would improve the well being and the living standard of the citizens.

### **NIGERIAN NATIONAL DEVELOPMENT PLAN**

Nigeria has had series of development plans since the country became independent in 1960. The history of growth and development in Nigeria has passed through different strategies and growth models immediately the country became independent in 1960. For the sake of this research

work, the research would concentrate more on the following development plan adopted in the country;  
Structural Adjustment Program (SAP)

### **Vision 20-2020**

#### **7 point Agenda**

The scenario that necessitated for the introduction of the structural adjustment program by the Babangida's administration in July 1986 could be traced to the economic crisis in the country since 1983. The economic crisis in the country has resulted to a trade of short period which resulted to debts, estimated to be over N4 billion, whereas joblessness in the country has reached its peak and serious balance of payments deficits has forced Shagari's government to apply for three years extension of the International Monetary Fund (IMP) loan facility of 2.3 billion US dollars. The International Monetary Fund subjected the loan to seventeen conditions which Nigeria must fulfill before the loan will be granted to the country by the lender financial institution. Nigeria was unable to meet the conditions at that time, the negotiations was extended to the Buhari's regime and subsequently to Babangida's regime until 1985 when the loan was finally cast off through public debate. Before the agreement was rejected, Nigeria and the lender financial institution had already agreed on some conditions, while some conditions such as the trade liberalization, the removal of a petroleum subsidy, and the devaluation of the naira were still being debated. (Ogundipe, 1985). Similarly, after the loan was rejected, considering the economic challenges the economy was witnessing before July 1986, Babangida's administration introduced the structural adjustment program (SAP) in July 1986. Structural adjustment program (SAP) was a development plan geared towards providing support to facilitate for the development of an economy that was not controlled and dependent solely on the free market economy that was based on the capitalist ideology while the role of the government in this type of economy was to provide support to the private sector but never to be engaged in the production process. The aim of the policy was to reduce inflation and create job opportunity for the teeming youths in the country. Moreover,

instead of checking inflation to its minimum the inflation has gone up from 5.4% to 40.9% in 1989.

Moreover, the economic crisis in the country called for the total change from an economy that solely depend on single source of foreign exchange for the country to the multiple sources. Nigeria has since the explorations of oil begun in the country abandoned agriculture and depends very heavily on oil as the major source of earning for the country. The effect of it was it created in balances in the economy which was caused by massive importation into the economy that further worsened the foreign exchange reserves. Nevertheless, the overvalued naira have stagnated the foreign debt, increase the rate of unemployment, worsen balance of payments crisis and causes fall in the prices of crude oil. The Structural Adjustment Program was planned to fit the normal standard of the International Monetary Policy-World Bank structural adjustment package. The program was designed to restructure the Nigerian economy change the consumption and production patterns of Nigerians, eradicate distortion of price and over dependence on the exportation of crude oil and over importation of consumer and producer goods. The program was designed to encourage economic efficiency and long term economic growth and the stabilization policies designed to restore balance of payments equilibrium and price stability. The overall aim is to totally revamp the Nigerian economy.

Obadan and Ekuehare (1989) noted, Nigeria's SAP is intended to discourage primitive accumulators, and to encourage capitalist accumulators in the economy. The emerging structure of dependent capitalism envisages only a supportive role for the government in a refurbished economic environment of highly reduced government ownership and control of agricultural and industrial enterprises.

#### **OBJECTIVES OF STRUCTURAL ADJUSTMENT PROGRAM**

The following are the objectives of the Structural Adjustment Program;

- i. To realize fiscal and balance of payments feasibility over the period
- ii. To lay the foundation for a massive disinflationary growth in the country

- iii. To trim down the domination of barren business enterprise in the public sector, improve the effectiveness of the sector and increase the development potentials of the private sector of the economy
- iv. Measures were adopted to encourage indigenous production capacity and increase the supply potentials of the economy
- v. Realistic exchange rate policy were adopted through a Second-tier Foreign Exchange Market (SFEM)
- vi. The justification and reorganization of the taxes to stimulate industrialization of the entire economy to improve production
- vii. develop trade and payments liberalization
- viii. Minimize administration controls and foster reliance on market forces
- ix. Exchange policies adoption for public enterprises
- x. Sale all means of production to individuals

#### **NIGERIA VISION 20-20-20 DEVELOPMENT PLAN**

The Nigeria Vision 20:2020 was a future based economic restructuring strategy aimed at setting the Nigeria's economic on the path of growth and development. The economic plan was aimed at targeting changes within the economic sector of the Nigerian economy with the aim of setting the country to be among the twenty most developed economies in the world. The plan utilizes the country's economic growth and development strategies that was adopted for the period of eleven-years from the year the plan was implemented i.e. between 2009 and 2020, and the plan will be executed using different medium term national development plans to help in the realizing the set objectives.

Moreover, one of the objectives of the Vision20:2020 was make sure all Nigerians are united as one family regardless of their socio cultural and religious background to make sure they stand firm towards growth and the development of the country. The development plan was designed to take care of all positive interest of the Nigerians by using a bottom-up approach which was adopted considering the wishes and aspiration of all Nigerian citizens, and the future needs of the country. The vision was tasked by the need to mobilize the resources of the country to improve

the lives of its citizens, and to act promptly to the challenges of the nation building.

Furthermore, under the vision 2020 what Nigeria was planning to achieve depends largely on the changing comparative analysis of the country's likely growth rate and economic structure of the Top 40 economies in the world. This means that the rates at which the economy of Nigeria was developing must be at an average of 13.8% during the time horizon, stimulated by the agricultural and industrial sectors within the medium term while a evolution to a service-based economy was proposed to take place from 2018. Essentially, the target of this was to utilize both human and natural endowments in the country and translate it into a sustainable development that will put the country to be among the twenty most developed countries so that citizens can benefit from it. The dreams of the vision are under the following headings;

Under the social point, the vision was planned to change the mind set of Nigerians positively so as the set target of developing the country will be actualized. At the social dimension of the vision every citizen will be groomed to have strong feelings of national integration which are backed by a well-designed educational and healthcare system that caters for all, and sustains a life expectancy of up to 70 years.

Moreover, another objective of vision 2020 was to have a very strong economy, the vision hoped to have a very strong economy which can compete with the rest of the developed economies of the world and can contribute not less than 25% to Gross Domestic product (GDP) which will boost growth and development of the economy.

Furthermore, another target based on the projection under vision 2020 was a sustainable democracy where a vote of the citizens in the country determines their choice for their leaders. This objective of the Nigerian government under vision 2020 was to also provide adequate infrastructure in the country to support a market-friendly and globally competitive business environment which will help in facilitating the actualization of the dream and aspiration of turning the country be among the twenty (20) most developed economies in the world.

Nevertheless, the environmental dimension of vision 2020 provides a reasonable level of environmental consciousness that enables and supports sustainable management of the nation's natural endowments

to ensure their preservation for the benefit of present and future generations and the development of the country to be among the twenty most developed countries in the world.

### **Challenges of Vision 20:2020**

The challenges faced by the vision 2020 in Nigeria which eventually led to its failure was basically on the economic transformation blue print which failed to stimulate economic growth and socio economic development of the country due to massive and organized corruption which hindered the vision 2020 from achieving its desired target in the country. Even though, there were so many factors such like poor management of the country's economy, poor budgetary policy but the major factor that contributed to the failure was corruption which was at its highest stage in the country at that time.

### **SEVEN POINT AGENDA**

The seven point agenda was an economic development policy introduced by the Umar Musa Yar adua's administration in Nigeria. The policy aimed at setting the country on the pad of development by developing the seven sectors of the economy which include, power and energy, wealth creation, transport sector, food security, land reforms, security and education. The target of the government at that time on the power and energy sector was to develop the sector to be able to supply the country with stable energy and power so as to boost industrial production and make the country among the developed economies of the world by the year 2015.

Furthermore, wealth creation was another point on the seven point agenda of the government that focused on wealth creation through the diversification of the economy more especially in the agricultural and solid mineral sectors so that the sector will expanded in such a way that it can create more jobs opportunities and wealth to the jobless youths of the country.

Nevertheless, under the point agenda the government aimed at developing the country through developing the transport system to be of world or international standard, the government planned to make the road network to be very efficient means of mass transit of people and

goods by making sure the rail system is being put in place before the year 2015 so that the movement of goods and services will be more easier. Moreover, on the food security, the government emphasis was on the development of modern technology, research, financial injection into research, production and development agricultural inputs leading to 5 to 10 fold increase in yields and production thereby providing the Nigerian populace with enough and quality food in the country by the year 2015. Similarly, land reform was also among the seven point agenda of the government aimed at setting the country to be among the developed countries of the world. Under this agenda, the government proposes a land reform so as land will be accessible for both agriculture and other business purposes with the aim to boost production and wealth creation in the country.

**In addition, the government under the seven point agenda wants to take the issue of Security very seriously because without adequate security of lives and properties no one will like to invest in such an atmosphere, government want to make security its top priority so that foreign investors may be attracted to invest in the country.** Similarly, the Niger Delta security issue will be the primary focus of the government. Government promised to dialogue with the militants to find a lasting solution to the security challenges of the area.

**Lastly,** the transformation embark upon by the government under this vision was to bring about changes in the educational system of the country to be in line with the international standard and to equally provide quality and accessible education for all regardless of status in the country. However, the proposed changes in the education was to groom Nigerians to be knowledgeable in science and technology with a view to be self-reliant

In conclusion all the above mentioned development plan adopted by different administration in Nigeria at different times by different leaders were very good development plan with good aims and objectives but none of the development plan has achieved its desire goal simply because of the massive corruption and the embezzlement of public fund in the country by government officials which eventually hindered the actualization of the set target.

## **DEMOCRACY AND THE LEGAL SYSTEM IN NIGERIA**

Judiciary as the most critical arm through which democracy rest and the last hope of the Common man has been in the state of mess in Nigeria. The temple of justice with the judge as highest priest and the institution that was vested with power of dispensing justice to the citizens, government and organizations is in the state of decay to the extent that the highest bidder gets justice to his own side more especially during and after elections when judiciary is supposed to have played their role by dispensing justice to all parties involved without fear or favor based on the provisions of the constitution of the country but reversed is the case because the highest bidders and those in the ruling party gets justice in their favor even when they do not deserve it. Similarly, the Nigerian judiciary has had a bitter experience of its 57 years of independence; Nigeria has had to groan under various military dictatorships for 30 years. Admittedly, during these periods many judicial officers out of fear of sudden removal or subsequent banishment to penury and obscurity did pass judgments in favor of the military government and their allies even when they don't deserve it. Fortunately some courageous judicial officers have stood up to up hold their sacred oath to dispense justice without fear or favor.

Moreover, the analysis of the judiciary in Nigeria since independence both under military and the civilian reign has clearly depicts that the judiciary had compromised it standard to the extent of being accused of being deeply involved in so many corrupt practices more especially on election matters that involves the politicians. The activities of the Nigerian judicial staff which involve not only the court judges but also both lawyers and judicial staff as well has constituted a serious traits and danger to the survival of the nation and its democratic institutions, this is because individuals have begin to lose hope on the judiciary they rather prefer to take action on any issue that is supposed to be taken to the court for proceeding because they are not sure whether they would be given the justice they deserve or not because justice to a common man in Nigeria is for sale to the highest bidder.

Furthermore, It is very obvious that if more attention is paid to the basic rights of the people as enshrined in the constitution then the Nigerian government and the judicial sector must formulate the necessary

strategy and tactics of ensuring that it live up to its expectations by fighting corruption and all vices that may hinder free and fair justice to all regardless of the socio economic status of the parties involved in the country.

Similarly, the division of government powers into legislative executive and judicial by the constitution was made in such that it will make administrative efficiency. However, the judiciary is the arm of government charge with the responsibility for interpreting the laws and punishing whosoever happened to violate the laws. Therefore, it is the duties of the judiciary to exercise its constitutional powers in the settlement of disputes between persons and government or authority, between the Federal and the state and between states and the proceedings for the determination of any question as to the rights and obligations of any person, government or authority. The judiciary is a creation of the constitution and hence derives its power from the constitution of the federal republic of Nigeria under Section 6 of the 1999 Constitution as amended in 2011 vested judicial powers in the courts established under Section 6 (5) which includes the Supreme Court of Nigeria as the highest and final appellate body, the Court of Appeal which is subordinate to the Supreme Court, but hears appeals from lower courts, the Federal High Court and State High Court(including the High Court of the Federal Capital Territory, Abuja) which have coordinate jurisdiction in their different spheres of authority. Also established is the Shariah Court of Appeal and the Customary Court of Appeal which exercises such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law, and such appellate and supervisory jurisdiction in civil proceedings involving questions of customary law respectively.

Nevertheless, Section 6(4) of the constitution empowers the National Assembly or any House of Assembly to establish courts other than those mentioned above, with subordinate jurisdiction to that of a High Court. The constitution under the same section made provision for the existence of lower courts such like Magistrate courts, District Courts, Area Courts and customary courts in the various states where applicable. Consequently, the judicial arm of government in Nigeria does not operate on its own but rather within the ambit of law and a legal system.

The legal system in this sense consists of the entire laws or legal rules and the legal machinery that work in synergy to ensure the smooth dispensation of justice in the country. However, due to the Nigerian colonial history, a larger part of the Nigerian legal system is the British common law system based on that, the decisions of the apex court remains binding on the subsequent cases of the lower courts. Similarly, the decisions of higher courts as well are binding on the lower courts and also, decisions of courts of coordinate jurisdiction are also binding on those courts. The court in which the decisions are made may deviate from it only in special cases while the courts under it must act in line with that decision. .

Furthermore, as contained under the Nigerian laws on the structures of courts, the supreme court of Nigeria is the final court in Nigeria. The decision of the Supreme Court cannot be contested anywhere in Nigeria and its judgments serve as reference to the courts under it.

Moreover, based on the Nigerian legal process the courts, the judges, are advised to be detached from the disputants and to maintain a neutral stand as uninterested umpires relying on the arguments from both sides for their final decisions. For example under Nigerian law an accused is presumed innocent and the prosecution is required to prove his case beyond all reasonable doubt, Judges are expected to offer little or no assistance to the prosecution in securing the conviction of an accused person.

Nevertheless, the constitution of the federal republic of Nigeria is the only laws guide for the country. Under section 1 of the 1999 Constitution, it has explicitly made it clear that the constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. If any other law is inconsistent with the provisions of this constitution this constitutions hall prevail, and that other law shall to the extent of the inconsistency be void.

### **LEGAL SYSTEM IN NIGERIA**

Nigerian legal system was partly inherited from Britain due to the colonial past of the country. English common law form the basis of the country's legal system, though there were some legal system that are in

use but the English common law over shadowed the two existing legal systems which include shariah or Islamic law and the customary law. The shariah law in Nigeria deals with only issues of marriage contract, divorce, inheritance and secession while the customary law deals with the issue relating to customs and traditions.

Moreover, the shariah or Islamic laws are purely Islamic laws that deal with the issues relating to marriage contract, its dissolution and inheritance in Nigeria. The shariah laws unlike customary law, is written and is contained in a book known as the holy Quran and the teachings of the holy prophet. The shariah law is being practice in the northern part of Nigeria which is predominantly Muslims. The shariah courts in Nigeria do not treat criminal cases as the cases they treat are purely family related cases.

The Supreme Court in Nigeria remains the highest court in the country. After Nigeria became a republic in 1963 the Supreme Court replaced the Judicial Committee of the Privy Council of Britain as the final court of appeal. The Court of Appeal was established in 1976 to entertain appeals from the High Courts, which are the trial courts of general jurisdiction. The Court of Appeal have it branches in 10 Judicial Divisions spread throughout Nigeria, but is still one court and is bound by its own decisions. The Court of Appeal and all lower courts must respect the decision of the Supreme Court. The High Courts and other courts of coordinate and subordinate jurisdiction must respect the decision of the Court of Appeal. The doctrine of judicial precedents does not apply rigidly to certain courts like the customary/area courts and the Sharia courts in Nigeria.

### **SOURCES OF THE NIGERIAN LEGAL SYSTEM**

The following are the sources at which the Nigerian legal system derived its validity;

- Customary and Islamic law
- English common law
- Constitution
- Nigerian parliamentary legislation
- Judicial precedent

- Law report
- Law books

### **Customary and Islamic law**

Customary and Islamic law, are rules and regulations which formed part of the sources through which the Nigerian law derived its strength and validity. The customary and Islamic laws are the laws that are recognized by the indigenous people which had its origin from religion and cultural beliefs of Nigerians. The shariah law in Nigeria deals only on the matters relating to the issue of marriage, dissolution of marriage, succession and inheritance, land and chieftaincy matters. For any customary or Islamic rule to have the force of law, it must not be inconsistent with the natural justice, equity and good conscience. Secondly such rule must not be incompatible either directly or by implication with any law for the time being in force. Finally, it must be the existing native law or custom and not the native law and custom of ancient time. Customary law must be proven beyond any reasonable doubt of its existence in any Nigerian society before non-customary courts either through the testimony of witnesses who are considered versed in that area or those who are considered to be the custodian of the culture of that society in question example is the traditional rulers and traditional title holders. Proof of a particular custom by evidence can be dispensed with if judicial notice has been taken of it in such circumstances stated in the Evidence Act.

### **ENGLISH COMMON LAW**

English Law is one of the sources to the Nigerian legal system this is because Nigeria was formally a British colony and a larger part of the Nigerian legal system is purely a British common law. English common law occupies a large portion in the Nigerian legal system, though there are other sources but the English common law is the major legal system in operation in Nigeria.

### **NIGERIAN LEGISLATION**

Laws made by the Nigerian legislatures also form part of the sources of the Nigerian legal system. The legislative arm cut across the three tiers

of government namely, federal, states and the local government are all relevant as part of the sources of law in the country.

### **JUDICIAL PRECEDENT**

Judicial precedent simply means setting a standard through judgment by the higher courts, though some times the judgment may not have a direct source from the Nigerian law records but the trial justice may apply wisdom and other doctrine of necessity and pass the judgment as long as the judgment is not over ruled by any superior court it remain a reference case to the lower courts and subsequently an additional law to the existing ones.

### **LAW REPORTS**

The weekly Law reports are another source of the Nigerian law and the legal system. The law reports produced by lawyers serve as another source of the Nigerian legal system. The reports contained judgments for the entire week which was passed by judges in the country while the entire law reports are being produced by the federal ministry of justice. The reports is very helpful as a guide to lawyers and judges and above all as a source to the legal system conclusively, the court may sometimes fall back to textbooks by notable scholars in the field of law to serve as a reference point to any judgment they considered very fragile and complicated more especially where such cases have not been previously decided in the court or where the position of the law on the case is not clear, courts may turn to textbooks by notable authors for assistance and guidance. But their books are merely persuasive. The Evidence Act specifically provides as regards customary laws that any book or manuscript recognized by natives as a legal authority is relevant more especially books written by re known legal practitioners.

### **DELAYS IN DISPENSATION OF JUSTICE IN NIGERIA**

The constitution of the federal republic of Nigeria under section 36(1) of 1999 as amended in 2011 has guaranteed all citizens of the country the right to a fair trial within a reasonable period of time. The section provides that “In the determination of his civil rights and obligations, including any question or determination by or against any government

or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law.” Unfortunately, most judges in Nigerian courts do act contrary to this provision of the constitution because most trials in the country are never done within the reasonable time as stipulated by the constitution of the country. Similarly, studies conducted by some re known international and national human rights organizations such like the Human right watch, and Transparency international, Hurilaw, a Nigerian nongovernmental organization found that, there is extreme delay in dispensation of justice in the country’s judicial courts which according to their reports delay in litigations have almost become a normal thing or normal routine in the Nigerian courts which the duration of a case in courts takes an average hearing period of 5-6years in a case at first instance in a Nigerian superior court with another 3–4 years consumed in appellate proceedings.

Moreover, according to the survey conducted by Dr. Jedrzel George Frynas,(2011) a Professor at Coventry University United Kingdom on the problems of access to courts in Nigeria, have identified delay as one of the impediments that is frustrating the access to courts in Nigeria. He further stated that Delay in the disposal of cases in Nigeria is conceived as the fourth most vital problem of access to courts in Nigeria. According to his findings the cause of the delay in the dispensation of justice in Nigeria appears to be due to the congestion in the courts, which manifests itself through the high number of pending cases in the country’s courts. Cases filed in Nigerian courts according to his report including appeals may take over 10 years before reaching a final verdict. Frynas further stressed that, as a result of the delay of judgments in the Nigerian courts sometimes the original litigants might have died before the time of the judgment. The survey which consisted of both field study, interviews and analytical examinations of cases and legal documents empirically have finally confirmed the devastating nature of the Nigerian judicial system which includes the slow pace of litigation in the country’s courts of justice. Frynas further confirmed that it is hardly any case in the Nigerian courts to be heard with a real degree of urgency or desire to comply with the provisions of section 36(1) of the Constitution of federal republic of Nigeria 1999 as amended in 2011.

In light of the above therefore, the constitution of the federal republic of Nigeria has stated clearly under section 294(1) 1999 as amended that, “Every court established under this Constitution shall deliver its decision in writing not later than ninety days after the conclusion of evidence and final addresses and furnish all parties to the case with duly authenticated copies of the decision within seven days of the delivery thereof.”

Going by the provision of the above section of the constitution of the federal republic of Nigeria 1999 it might be right to say that the judicial arm that is regarded globally as the custodians of all righteousness is found to be out rightly violating what a common man regarded as his last hope just for the sake of satisfying his selfish interest is a terrible moment for both the citizens and the survival of the country as a nation. For instance, a case that is entirely a documentary or depends mainly on the interpretation of some documents without the credibility of witnesses coming to the court to testify, in such instances delay should not be expected in any way .Therefore, it sound to me that the delay in the dispensation of justice on this regards per se might not be on either the parties involved in the case or their witnesses because the case does not require the testimony of any witness as such it is a case that depends on documents as evidence and if there is delay in this type of case the trial judge should be call upon by the relevant authority such as the national judicial council to explain why it happens.

### **THE RELEVANCE OF HABERMAS TO THE NIGERIAN LEGAL SYSTEM**

The relevance of the Habermas’s ideas about law and legal system in contemporary society cannot be over emphasized even though, Habermas did not write on the Nigerian legal system directly but his writings and ideology about law and legal system is very relevant to the Nigerian legal system. The philosophy of the natural law as discussed by Habermas in his early essay (1976a:88-141) has explicitly explained detailed about British legal system which is being adopted as part of legal system in Nigeria.

Moreover, it is very clear to say or conclude that Habermas is concerned so much about law as a mechanism for organizing complex social structures and bringing social coherence in society. According to

Habermas (2006:76) law as a legal system has a status tight to economic and administrative structure. Law based on Habermas conception allows and guide individual in any given society or nation to relate with each other as agents who acts in line with the laws of the society with the aim of having a peaceful coexistence between individuals and organizations as well as bringing the desirable development into that society as a result of the peace being enjoyed due to the existence of law and order in that country.

Furthermore, another relevance of Habermas to the Nigerian legal system could be seen on his ideology about law and legal system, he states that law in any given society or nation moulds the behavior of its members to be in conformity with the laid down regulations of that society which will at the end leads to social coherence in that society or nation and also helps to organized complex societies like Nigeria which is battling with different socio economic and political problems into vibrant destination full of peace and stability that will support human existence.

Nevertheless, Habermas's ideology about law and democracy is very relevant to the Nigerian legal system; this is because Habermas's qualities of a good law have concurred with the qualities of a good law and legal system in Nigeria. In view of the above therefore, Habermas states that a good law must be consistent and instrumentally effective in maintaining social order in a society or nation which is directly in line with the Nigerian law under section 1 sub section (3) of the 1999 constitution as amended in 2011, it states that all the laws as contained in the constitution are supreme and any law made by any state or organization within the territorial boundaries of Nigeria must be consistent with the laws of the federal government of Nigeria, and any law that goes against any provision of the federal law, that section to the extent of its inconsistency remained void.

### **RELEVANCE OF HABERMAS TO THE NIGERIAN LEGAL SYSTEM**

Habermas, (1996:122-3) suggests five categories of rights that all citizens are entitled to which is the same with the fundamental rights of individuals in Nigeria as contained in the Nigerian constitution 1999 as amended in 2011 in chapter iv. These five rights include; traditional

liberties, which simply means that individuals have rights to do what he likes freely without any intimidations. The second right is the guarantee of individual citizen's membership of the legal community; thirdly, has to do with due process of law so that all citizens have legal recourse should their rights be violated; the fourth point is, all citizens should have the rights of participating in political debate; the final point include traditional welfare rights such as rights to pension, education, minimum wage and so on.

Moreover, central to the Habermas philosophy of law and legal system rest between facts and norms which is also peculiar to the legal system being practice in Nigeria. In Nigeria for instance, the legal system and law was designed to be in line with the norms and values that was being approved by the Nigerian societies. Going by the above therefore, a legal system that deals with mainly customs and traditions was approved by the Nigerian government to be part of the main legal system which is the English common law and also a separate court was created to take care of all cases that have to do with customs and traditions in the country. The court is known as customary court which has status similar to the high court of justice in the country. The head of the court is known as the president of customary court and all judgments in all customary courts can be appealed up to the apex court in the country.

Nevertheless, the relevance of the Habermas conception or idea about law and the legal system in Nigeria cannot be over emphasized this is because his ideas about law and legal system is a true reflection of the present legal system in the country. Habermas believed that for any law or legal system to be regarded or seen as a reflection of justice, both the state and its subjects must be ready to respect and acknowledge the existence of it either by action or by speech.

Furthermore, another relevance of the Habermas to the Nigerian law and legal system could be seen in his analysis of legal system and law where he analyses the strength and the status of any law or legal system based on the principle of universality and the principle of discourse ethics. Habermas holds the view that for any law or legal system to be recognized as universal, both the parties involved must accept the consequences of its general observance while on the principle of discourse ethics he explained that the agreement of all parties must be

achieved through practical discourse, which is to say through open and free debate where agreement depends on the strength of the better argument.

In conclusion, though Habermas did not write or contribute directly to the Nigerian law and legal system, but his works are relevant to the progress and development of not only the legal system but the entire country as a whole. Habermas in his writings he preaches about justice, equity and the rule of law which is an engine to peace and development in any nation not only Nigeria.

### **CURRENT STATE OF THE NIGERIAN LEGAL SYSTEM**

The attainment of justice by all individuals signifies the fulfillment of the promises of any constitutional democracy to give all individual regardless of their socio economic or cultural back ground to reclaim and enjoy the rights and liberties granted by the constitution or laws of the country and the international convention which the country is a signatory.

Nevertheless, despite the establishment of the constitutional democracy in Nigeria however, the attainment of justice by all in the country is being strewn with so many problems which includes among others such as socio cultural and institutional problems that made it difficult for the individuals in the country to have justice as enshrined in the constitution of the country.

Moreover, the problem of not having desirable justice by the citizens in Nigeria is being worsen by the fact that the judges in the country aligned themselves more to the rich and the political office holders in the country at the detriment of the majority of the masses as a result of that the judges manipulates justice to suit the preference of the rich and the political office holders in the country.

### **PROBLEM OF THE JUDICIARY IN NIGERIA**

The following are the problems of judiciary in Nigeria;

- Judicial corruption
- Manipulation
- Intimidation of judges

The problem of judicial corruption in Nigerian judicial system is very alarming over the years; this is due to the fact that judges, lawyers and the judicial staff are seems to be deeply engaged in corrupt practices which eventually made the judicial sector to lose its credibility in the face of both citizens and the international community as well. The issue of judicial corruption engaged by the court judges and lawyers handling a case or cases in the Nigerian courts is becoming an issue of serious concern more especially with the arrest of some prominent judges of the country's apex court and some lawyers who are currently facing trail in different Nigerian courts on issues bordering corruption which was facilitated by the lawyers handling those cases in other to attract the favor of the judge on the cases or case before the court. The situation is very serious more especially among the senior judges and lawyers who handle sensitive cases of either high profile individuals who are accused of corruption or cases that has to do with electoral matters which the parties involve are politicians who may be ready to offer them any amount for them to get favor from the court.

Okechukwu o. (2005:18-19) states that because of the massive corruption within the Nigerian judicial sector, there is a widely distrust among Nigerians on the sector's integrity and its ability to protect the civil rights and check the excesses of the elected officials in the country. Judiciary to so many Nigerians is considered to be like a business ventures where the highest bidder gets justice he wants but not what he deserved.

In a similar vein Okechuckwu (2005:25) stated that Corruption seems to be the systemic disease of the Nigerian judiciary, and has generated complaints from all segments of the society, including social commentators. A study conducted in 2002 by A.J. Owonikoko reported that since 1999, more than fifty-five cases of corrupt practices have been processed by the National Judicial Council, the body charged with responsibility for enforcing discipline in the judiciary.<sup>81</sup> allegations of judicial corruption are currently working their way through the National Judicial Council.

Okechuckwu (2005:27) further stated that the president of Nigeria, while acting on the recommendations of the National Judicial Council, confirmed the compulsory retirement and dismissal of two judges of the

Federal High Court, Justices Samuel Wilson Egbo-Egbo and C.P.N. Senlong, Justice Egbo-Egbo of the Federal High Court, Abuja, issued a string of ex parte orders under questionable circumstances and clearly without jurisdiction. Each manifestly illegal order made without jurisdiction reinforced the public's already abrasive contempt for the judiciary. Disturbingly, Justice Senlong, one of the most senior judges of the Federal High Court, was implicated in a bribery scandal that involved the unlawful influencing of other judges carrying out judicial functions. Judge Senlong was quickly suspended and ultimately dismissed from the bench for what the National Judicial Council described as "the despicable role he played in attempting to influence the decision of an election tribunal." Judge M.M. Adamu, chairman of the tribunal and a judge of the Plateau State High Court, was also dismissed for receiving a bribe.

Consequently, Akambi (2005:29) stated that the First problem of the judiciary in Nigeria is the problem of the corruption among judges. Corrupt judge according to him is just like an afflicted person—just like the carrier of the AIDS virus or kleptomania. He suffers from a deadly disease. To him, justice is not his primary concern. What matters to him most is the corrupt money that is turned over to him by his partners in crime. His conscience is warped. His judicial Oath means nothing, and so he hardly realizes that he is an obstacle to justice according to law. In any case, by his nature, he is a stranger to justice, and if he is not caught in the act, he remains a perpetual obstacle in the way of justice until perhaps Nemesis catches up with him. Otherwise, he is unable to appreciate, let alone administer justice according to law. Second is the dangerous and mischievous Judge who knows the law but prefers not to follow the law. He acts on whims and caprices. He assumes jurisdiction where there is none. He declines jurisdiction where there is. To him, judicial precedence means nothing. His motive is dangerous. His wig and gown are mere symbols of his ego. Again to this class of Judges, the judicial Oath is a mere cosmetic. Such a Judge is not only an obstacle to justice according to law, he is a danger to the entire Judiciary as an institution.

Going by the above analysis of the Nigerian judicial system, it is very correct to say that one of the major problems of the Nigerian judicial sector is the problem of corruption which has eaten very deeply into it

to the extent that the citizens don't get the justice they deserved simply because justice is for the highest bidder if you have money you can now buy justice to yourself that is exactly the situation with the Nigerian judiciary.

Furthermore, the executive arm and well-connected citizens, manipulates the search for a fair trial by manipulating the judiciary. Senior government officials have little or no respect for the principle of separation of powers while they use their influence and powers to manipulate the judiciary through interfering with the judicial process. This illegal act by the executive and its allies is so deeply rooted into the Nigerian culture to the extent that politicians and the wealthy among Nigerians have continue to influence court proceedings despite the fact that judicial arm of government supposed to be an independent body free from all kind of control. Governments, such like the state governments they uses different methods and techniques to manipulate the judiciary through offering of gratification or bribe to judges in order to manipulate judgment to their favor more on election matters. The relationship between executive and the judicial arm of government makes it much easier for government officials to manipulate judges to give judgment that will favor them. Though the appointment of the judges are done by the executive on the recommendations of the National Judicial Council, meanwhile judges must have good relationship with the government for many of their benefits like housing and transportation. Some Judges live with the anxiety that government officials are unhappy with their decisions, could make life difficult for them by denying them decent housing and transportation or luxury which they may need from either executive or highly placed politicians Karibi. W (2005:37-38) stated, that when the Executive controls what the Judiciary requires for discharging its constitutional functions, when the maintenance of the health and comfort of members of the Judiciary lies at the whims of the Executive; when the facilities for interaction with other judicial colleagues all the world over is controlled by the Executive, the only value left is that of impartiality which is maintained by the human spirit, and the sacred resolve to uphold the judicial oath. To what extent the vagaries of the executive oppression affect impartiality

depends upon the pain threshold of the individual Judges and resistance of the injustice inflicted by the executive misdemeanors.

Moreover, intimidation of judicial staff and lawyers in Nigeria by the rich and powerful Nigerians made it very difficult for the judges to mediate conflicts and disputes through the judicial process. The preferred mode of operation by the rich and powerful in Nigeria is to blunt demands for justice by engaging the judges in a strategy of intimidation and manipulation. The prevailing strategic used by the rich and powerful in Nigeria is to bribe the judges that can be bribed and intimidate those who refuse to be bribed. Bribery in most cases usually involves money, but may also include promises of elevation to the higher rank. Intimidation of judicial officers is found in all branches of the judiciary from trial courts up to the Supreme Court. Similarly, there are various reports on the Nigerian media on the harassment and intimidation of judicial officers though no name was mentioned as to who is intimidating who but the scenario sound like the intimidation and harassment came from the executive arm. Consequently, the murder trial of those accused of killing the late Attorney General of the Federation, Bola Age, was delayed for a long time because of intimidation and harassment of the judges handling the case. Three judges separately refused to continue hearing of the case, citing pressure from unnamed highly placed persons in government. Justice Moshod Abaas narrowly escaped from being intimidated and harassed by the powerful individuals whose names were not mentioned citing pressures from unusual quarters. This situation accurately portrays the unfortunate and uncomfortable situation in which judges find themselves once they assume jurisdiction in high profile cases. The intimidation of judges is becoming alarming and disturbing. The recent dimension by the powerful individuals who are well placed in the government of the country towards the Court of Appeal hearing in Enugu was a clear indication that judges in the country are being intimidated more especially on the cases the power brokers has interest. The presiding judge of the Court of Appeal, Justice Okechukwu Opene, publicly declared that he received threats from persons interested in the case. He stated, “Before I go on, I want to say my mind and that is my personal opinion. I am under pressure: there are calls and threats. But I have to go on with this matter.” Immediately after

one of the justices of the appeal court sitting in Enugu delivered his minority judgment in the case, supporters of one of the parties to the case stormed the court premises and threatened to physically deal with the judges. According to the newspaper report, “The judges had to quickly escape through the back door midway into their judgments.” The recent intimidation and assault on the Appeals Court Justices in Enugu was a clear indication that the lives of the judges more especially those who stood their ground to make sure judgments are being done without any fear or favor as contained in the constitution of the federal republic of Nigeria is in great danger. Similarly the activities of thugs who are being sponsored by the political class or the wealthy people in the society have made it extremely difficult for the decent judges to operate because of the corrupt environment the judges found themselves. The thugs believed that their intervention is necessary to influence the outcome of any case. Even though the laws of the country stated that it is a crime in Nigeria for anyone to interfere with the administration of justice through threats, intimidation or offering gratification but the fact remains that law enforcement agencies more especially are not doing enough to protect the judges from the dangers of those threatening the lives of the judges. The reactions of judges who publicly complained of threats demonstrate the pervasive sense of unease engendered by the lack of adequate protection for judges. It is both curious and instructive that judges who notified the public of threats and pressures on them failed to name the culprits. Failure to name the culprits not only reflects the awe in which even judges hold powerful Nigerians, but it also displays a lack of faith in the ability of the system to protect judicial officers

### **Inadequate Infrastructure**

One of the features of the current state of the Nigerian judiciary is bad infrastructures such as outdated, and poorly equipped physical facilities such as dilapidated buildings, poorly furnished with no modern ICT connections such like computers printers and photocopy machines among others are not in place for office use, staff in those offices are left with no option other than to take sensitive documents to the business center for either photocopying or printing which sometimes lead to the leak of court’s sensitive documents which as a result of that, it seriously

undermine the fair and speedy administration of justice in the country. Justice can hardly be speedy if judges are not provided with the necessary facilities and equipments to enable them discharge their constitutional responsibilities as enshrined in the constitution of the federal republic of Nigeria.

Furthermore, Human Rights Watch report (2017) states that, Court facilities in Nigeria are grossly, hopelessly overcrowded, badly equipped, and underfunded. In some courts the Interpreters may be nonexistent or badly trained. Court libraries are inadequate. There are no computers, photocopiers, or other modern equipments and in some cases, judges do bring their own paper and pen to record their judgment and If litigants need a transcript of the judgment for the purposes of an appeal, they have to pay for the transcript themselves.

Consequently, infrastructural deficiencies in the Nigerian courts have seriously undermined the search for a true and fair trial in the country. The poor infrastructural facilities in the Nigerian judicial sector has permitted if not encourages bribery and corruption within the sector. Records of court proceedings, courts' other sensitive documents and judgments are stored in a very poor conditions thereby making them susceptible to intentional destruction by unscrupulous staff of the organization. Modern facilities in the Nigerian courts are totally not in place which made it very difficult to store or retrieve data for future use. Moreover, lack of centralized data base for the Nigerian judiciary has provided an enabling environment for corrupt and unethical court officials to tamper with evidence or even court records for the purpose gaining some gratification out of it. Secondly, because of the ill-equipped nature of the Nigerian courts, parties are limited in the kinds of technological and visual aids available throughout litigation. The courtrooms are not equipped with modern technology devies to handle audio, slide and other visual presentations in the court rooms for the purpose of tendering of evidence by the parties during litigation. Okoro O. (2015), a lawyer, stated that the hardware and software of the court system is moribund . . . . Record keeping and document management facilities and procedures are rudimentary. Court libraries are outdated, compelling judges to borrow books from lawyers appearing before them. Time saving court procedures such as discovery and

interrogatories are largely regarded by the Bench and the Bar alike as novelties. Modern information technology and office equipment are virtually unknown.

Nevertheless, delay in the dispensation of justice in Nigeria has been identified and confirmed to be one of the major feature of the Nigerian judiciary by this research, even though the constitution of the country has seriously forbid any form of delay in the justice dispensation in the country but because of some reasons which may be unveiled by this research in due course delay of different kind do take place in the judicial sector of the country. Under section 36 (1) of the Nigerian constitution, the right of the citizens to a fair trial in Nigeria is guaranteed by the Constitution, and it provides that, “In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law. Very regrettably, trials in the country are never heard within a reasonable time as stipulated by the constitution, cases last longer than necessary in courts more especially if the trial judge and the lawyer handling the case are gaining something out of the case they will never let the case finish in a short period of time. Research conducted by some human rights organizations and scholars have identified delay in the dispensation of justice in Nigeria as one of the major problem to the search for justice in the country’s judicial courts. For instance, Hurilaw, a Nigerian nongovernmental organization found that, “extreme delay in litigation in the courts is routine. On the average, hearing in a case at first instance in a Nigerian superior court can take as long as 5–6 years with another 3–4 years consumed in appellate proceedings.” In a similar vein, research conducted by Human Rights Watch (2017) found that “delays plague the course of litigation against oil companies.”

Jedrzal George Frynas, a Professor at Coventry University, lists delay in justice in Nigeria as one of the impediments frustrating access to the courts. He stated: that Delay in the disposal of cases is perceived as the fourth most important problem of access to courts in Nigeria. This appears to be due primarily to the congestion in the courts, which manifests itself through the high number of pending cases. Cases in Nigerian courts including appeals may take over 10 years before reaching

a final verdict. Sometimes the original litigants will have died by the time the judgment

### **THE FUTURE OF THE NIGERIAN LEGAL SYSTEM**

The future and the faith of the Nigerian legal system depends solely on if the problems of the Nigerian judiciary such like Judicial corruption, Manipulation, Intimidation of judges, Institutional problem are solved.

The problems of the judicial corruption in the Nigerian judicial sector have become very alarming to the extent that it lost its credibility in the face of both citizens and the international community. The substantial and enduring costs inflicted on the citizens, legal profession, judiciary and the Nation as a result of corruption calls for reform of the entire system and the re-orientation of the citizens and the staff of the judicial sector on the danger of corruption on the judicial sector and the country at large. The international communities are concerned more about the danger of corruption on the survival of the rule of law and the consolidation of the country's democracy which can be destroyed by corruption. For the country to experience growth and development, corruption of all kinds must be reduced to its barest minimum to give the citizens their constitutional rights to a fair trial within a reasonable period as enshrined in the constitution of the federal republic of Nigeria. Bodies like the National judicial council and the Nigerian bar association should as a matter of serious concern live to their expectation by making sure all judges, judicial staff and lawyers who are found to be involved in all corrupt practices should be punished based on the provisions of the laws as contained in the constitution of the federal republic of Nigeria. If that is done then the good image of the judiciary will be restored and all citizens regardless of their status in the society will be treated fairly in the face of law. Nevertheless, in the event when the above mentioned measures are not taken then the entire judicial sector will be in the state of mess where corruption will take over the business of the day by making sure only those who can afford can buy justice to themselves that is exactly how the future of Nigerian judiciary will look like if measures to sanitize the system from corruption is not taken.

Furthermore, executive manipulation of the judiciary is another problem that has seriously engulfed the Nigerian judicial system at the moment

and if proper measures are not taken the future of the Nigerian judiciary and the country will be in the state of crisis because people may prefer to take revenge than to go to court. Similarly, the executive arm at both federal and states levels use their executive influences to manipulate and control the judicial arm to the extent that the executive determine whom the justice will be given and in most cases the delay in the dispensation of justice in the country are being caused by the executive in those cases which they have interest. Even though, the judicial arm is regarded theoretically as independent but practically is not because masses in the country prefer to take the law into their hands by taking a revenge when being cheated than to take the matter to court because justice at the moment is for those who know someone in government more especially, during and after election when the election petition tribunal is set up to entertain grievances from those who are not satisfy with the manner at which the election was conducted the executive manipulates the judgment in favor of their preferred candidates against the wishes of the people whom he will be representing. The scenario might be very bad for the future of the Nigerian judicial system because the entire country may be turned into a state of anarchy where the strongest in the society takes over the properties of the weaker ones and there will be no stronger judiciary to fight for the weaker ones as the judiciary in the country were already in partnership with the rich and political office holders in the country.

Moreover, the future of the Nigerian judiciary may be at stake as the judges that are supposed to mediate fairly between individuals or between individuals and organization or government are already being under intimidation and threat by the rich and the most powerful people in the country. Proper measures must be in place in order to safe guard and rescue the only hope for the common man. The national judicial council at each level must be ready and fully equipped to protect and defend any judge or a judicial staff who is intimidated by any person or body in the country. The Nigerian bar association should also liaise with the national judicial council to make sure no any judge, judicial staff or a lawyer is being intimidated by any person or government in the country. Nevertheless, the future of the Nigerian justice system will be bright only if the institutional problems such like the delay in the dispensation of

justice in the country are solved. The country's justice system has been battling with serious problem of delay which were as a result of corruption, executive interference, and poor infrastructure which if proper action is not taken the future of the justice sector in the country will be at stake because most of citizens may prefer to take revenge rather than going to court because even if they do at the end they may not get the justice they deserved. Similarly, if the situation is not handled properly it may lead to constant crisis because the cases that are supposed to be taken to court for mediation may end up being treated by the parties themselves through violent means which may not be good for the country will be turned into battle field for the sake taking revenge on the matter that is supposed to be treated in court.

### **CONCLUSION**

*Judicial corruption is confirmed by this research as a serious problem to the dispensation of justice in Nigeria. Even though there are so many problems that have hindered the judiciary from administering justice to the citizens of the country. Sadly, the role played by the corrupt judges within the judicial sector has deprived so many Nigerians from getting the value justice fairly, efficiently and transparently. It is unfortunate that money and other forms of gratifications have for long played a role in determining the outcome of a judicial proceeding in Nigeria. Moreover, because of high level of judicial corruption within the Nigerian judicial system, the citizens have lost confidence with the judicial system and indeed the democratic process. So many Nigerians as shown by the findings of this research prefer to take the laws into their hands and take revenge rather than to take the matter to court because according to them justice is for the highest bidder in the country. Based on this finding, corruptions of various types do exist within the justice system in Nigeria. Such other forms of corruption include promise of offer of next promotion, promise of award of government residential houses and promise of providing the judge with furniture and electronic gadgets in his house and sometimes in their offices which as a result of that they tend to give justice to those who do not deserve it why those who deserve it are left to suffer in jail on awaiting trial or suffer unnecessary delay more especially in those cases which the accuse is presumed innocent until proven otherwise.*

### **RECOMMENDATION**

*National judicial council should as a matter of urgency sit up to their responsibilities by making sure all corrupt judges are punished in line with the provision of the constitution of the federal republic of Nigeria and also corruption of all kind within the judicial sector should be brought to its minimal so that the confidence of the citizens of Nigeria on the judiciary will be restored.*

*Similarly, in cases that are non-criminal conduct, the National Judicial Council should be the body or authority empowered by law to investigate and recommend punishment to who so ever that is found guilty to the relevant authority empowered by the constitution. However, if the misconduct amounts to a criminal misconduct, the National Judicial Council should as a matter of fact, after sanctions or punishment, the matter should be refer immediately to the appropriate authorities for further investigation and necessary action which may probably amount to a criminal prosecution For example, a case that involved collecting or demanding bribe from the litigants or any party involve in a case that are regarded by law as a violation of the Code of conduct. Therefore, if a judge for instance is accused of collecting or demanding bribe he may be sanctioned by the National Judicial Council and be prosecuted for the same offense. However if disciplinary proceedings is initiated by the National Judicial Council it should never preempt or preclude further case of criminal prosecution of the judge that is under investigation, Because criminal prosecutions and disciplinary proceedings serve entirely different purposes. Any disciplinary proceedings or investigation instituted by the National Judicial Council is basically to ensure compliance with the approved standards of the judiciary. The Nigerian Bar Association should also look further into the matter to see if it deserved to be given such punishment, however, all Judges are lawyers.*

*Moreover, the independence of the judiciary in Nigeria is extremely fragile, ruthlessly mishandled by politicians or the executive arm. Even though, the constitution provides a clear separation of powers between the executive and the judiciary, it is very sad to note that the independence of the judiciary as contained in the constitution is just a night mere in Nigeria simply because the funding, appointment, and the promotion of court judges is still being done by the executives which gave them the power to*

have control over the judges and influence judgments to their favor. Complete independence of the judiciary should be put granted to enable judiciary function effectively without any control and intimidation from any quarter.

Furthermore, continuing judicial education through workshops, seminars and refresher courses should be considered a priority for judges in Nigeria to enable them update their knowledge and function effectively as contained in the constitution of the federal republic of Nigeria. Newly appointed judges should be given proper orientation or training on how to work efficiently as a judge in line with the laws of the federal republic of Nigeria.

Lastly, judges salaries and other allowances should reviewed upward and paid promptly to avoid the judges being tempted by the litigants who may like to offer them bribe for the sake of winning favor from them.

## **REFERENCES**

- Adedeji, A., 2015. *African Development in the 21st Century: Theories and Contributions*. Ibadan: Africa World Press.
- Agbibo, E., 2013. Ethno religious Conflict and Elusive Quest for National Identity in Nigeria. *Journal of Black Studies*, 44, pp, 3-30.
- Agbonika , J., and Musa, A., 2014. Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian View Point. *Journal of Law, Policy and Globalisation*, 26, pp, 1-10.
- Bryman, A., 2016. *Social Research Methods*. 5th ed. Oxford: Oxford University Press.
- Constitution of the Federal Republic of Nigeria, (1999), as amended in 2011
- Edger, A., 2006. *Habermas the key concept*. 2nd ed. London: Routledge Taylor & Francis Group.
- Iyoha M. & Oriakhi, D. (2008), Explaining African economic growth performance: The case of Nigeria. In B J .Ndulu (Ed), *the political economic growth in Africa 1960-2000* (pp651-659) Cambridge Uk: Cambridge university press
- Okechukwu, O., 2005. Seeking Justice in Transitional Societies: An Analysis of the Problems and Futures of the Judiciary in Nigeria. *Brooklyn Journal of International Law*, 31, pp, 1-50.
- Elo, S., Marcia, K., and Outi, k. 2014. *Qualitative content Analysis; A focus on Trust worthness* London: sage.
- Krippendorff, K., 2012. *Content Analysis An Introduction to its Methodology*. 3rd ed. London: Sage.
- Lawal, T., and Oluwatoyin, A., 2011. National Development in Nigeria: Issues, Challenges and Prospects. *Journal of Public Administration and Policy Research*, 3(9), pp, 237-241.
- Nigeria Vision 20:2020, (2010). Abridged Version. National Planning Commission.
- Neuendorf, K., 2016. *The Content Analysis Guide Book*. 2nd ed. London: Sage.

- Princewill, O., 2015. The National Economic and Development Strategy: Its Implication for Human Resources Development and Management in Nigeria. *Journal of Resources Development and Management*, 12.
- Schumaker, P., 2010. *The Political Theory Reader*. West Sussex: Wiley-Blackwell.