

Nigeria

Democracy of the courts, by the courts

DEMOCRACY is fundamentally the expression of the people's sovereign right to choose their leaders through the ballot box. This timeless principle is captured in the 1863 definition by United States President Abraham Lincoln: democracy is government of the people, by the people and for the people. Sadly, in Nigeria, that definition has been turned on its head. Our democracy has increasingly become one of the courts, by the courts. In effect, it is fast degenerating into a dubious political enterprise. The anomalies manifest in many forms, from pre-election to post-election litigation. At the slightest pretext, politicians with ulterior motives rush to court in pursuit of political advantage rather than justice. The aberration continues to grow. Ahead of the 2027 general elections, rival interests within opposition political parties have become embroiled in legal battles among themselves and with the Independent National Electoral Commission. Despite the Supreme Court's landmark ruling that the leadership and internal administration of political parties are their exclusive internal affairs, judges of lower courts have continued to interfere in such matters. As long as that controversial court judgement remains in force, such interference amounts to importunate judicial rascality. Over the past few months, litigation has ricocheted from one court to another, producing conflicting judgements by courts of coordinate jurisdiction. Most disturbing are the obvious attempts to use the judiciary to deregister the African Democratic Congress and the National Democratic Congress from INEC's official register.

The two parties have elected Atiku Abubakar and Peter Obi as their respective presidential candidates. On Monday, the Court of Appeal sitting in Abuja barred INEC from recognizing the congresses conducted by the David Mark-led executives of the ADC. With a few months to the 2027 polls, this casts a cloud over the process. More recently, Isa Dashen of the Federal High Court in Lokoja astonishingly reversed his own 2025 judgement directing INEC to register the NDC as a political party. Legal analysts describe this as unprecedented because only the Court of Appeal or the Supreme Court possesses the authority to overturn a High Court judgement. Earlier in July, the Federal High Court sitting in Abuja retained former Senate President David Mark as the National Chairman of the ADC. Musa Liman, the judge, struck out a suit filed by House of Representatives member Leke Abejide challenging the leadership of Mark and National Secretary Rauf Aregbesola, holding that the case lacked merit. The court further ruled that it lacked jurisdiction to interfere in the internal affairs of a political party. It affirmed that the transfer of leadership from former National Chairman Ralph Nwosu to Mark was valid and consistent with the ADC constitution. Another dramatic ruling came in June when Peter Lifu of the Federal High Court, Abuja, directed INEC to deregister the ADC, Accord Party, Zenith Labour Party, Action Peoples Party and Action Alliance for allegedly failing to meet the constitutional threshold for retaining their status as political parties. However, a three-member panel of the Court of Appeal overturned the decision. It rebuked the judge for disregarding its May 22, 2026, order directing that all proceedings in the matter be suspended. These interventions by the appellate courts are revealing. That High Courts can openly defy decisions of the Court of Appeal, and even the Supreme Court, exposes a deeply troubling pattern within the judiciary.

The National Judicial Council must curb this trend without delay. It poses a serious threat to the credibility of the 2027 elections. The courts cannot become cogs in the political machinery or subordinate the sovereign will of the electorate. Both the People's Democratic Party and the Labour Party endured prolonged rounds of litigation before attaining some measure of stability, although the PDP remains divided into rival factions. Should the courts eventually nullify the registration of the Accord Party, it would mean that the incumbent Governor of Osun State would be excluded from the ballot in the August governorship election. As matters stand, several opposition parties are operating under a cloud of uncertainty. With

only a few months to the general elections, this is deeply unsettling. Indeed, if the judiciary continues along this trajectory, the ruling All Progressives Congress may well emerge as the only viable political party in the 2027 elections. Since the Second Republic, the judiciary has exercised increasing influence over the outcome of elections, often eclipsing the electorate itself. This is democratic absurdity. Following the 1979 presidential election, it fell to the Supreme Court to determine the winner after the Federal Electoral Commission had declared Shehu Shagari of the National Party of Nigeria victorious.

The Court was called upon to interpret the famous "12 two-thirds of 19 states" formula after Obafemi Awolowo of the Unity Party of Nigeria challenged Shagari's election. On the eve of the June 12, 1993 presidential election, Bassey Ikpeme of the Federal High Court ordered the National Electoral Commission not to conduct the poll. The confusion generated by that ruling, delivered just hours before voting commenced, was later exploited by the military junta to frustrate the declaration of Moshood Abiola of the Social Democratic Party as the winner. In the Fourth Republic, the judiciary has repeatedly held the deciding card in electoral contests. Consequently, the votes painstakingly cast by millions of Nigerians have, in many instances, counted for little. Election disputes routinely travelled from High Courts to the Supreme Court and back. It took almost the entire four-year tenure of Chris Ngige of the PDP as Governor of Anambra State before the Supreme Court finally affirmed that Peter Obi of the All Progressives Grand Alliance had actually won the 2003 election. That judgement gave birth to Nigeria's off-season governorship elections because Obi had to begin a fresh tenure. In 2019, the Supreme Court nullified all votes cast for the APC in Zamfara State because the party failed to conduct valid primary elections, rendering its candidates ineligible to contest. The court consequently declared the PDP candidate's winners. In Bayelsa State, the Supreme Court nullified the election of the APC governor-elect just one day before inauguration after finding that the deputy governor-elect had submitted forged educational certificates to INEC.

The court therefore disqualified the joint ticket and ordered the inauguration of the PDP candidates. Similarly, in Rivers State, the APC's internal crisis culminated in its exclusion from the election by the Supreme Court for failing to produce validly nominated candidates. There are numerous other anomalies, some bordering on outright illogicality. Take the Electoral Act 2022. It expressly disqualifies candidates who contest two different primaries during the same election cycle. Yet the Supreme Court upheld the elections of Godswill Akpabio and Ahmed Lawan. Both had contested against President Bola Tinubu in the APC presidential primaries before emerging as National Assembly candidates. That remains inexplicable. Politicians themselves must bear part of the blame. Their desperation fuels much of this frivolous litigation. It is therefore noteworthy that in the ADC case before Liman, the court awarded ₦2 million in costs against Leke Abejide in favour of each defendant and imposed an additional ₦10 million in costs on the plaintiff's lawyer. Such penalties should be substantially increased to discourage politicians and lawyers from dragging the courts into matters that clearly fall within the internal affairs of political parties. INEC, however, must continue to protect its integrity and resist being drawn into needless political controversies. The NASS must also remain vigilant by continually reviewing provisions of the Electoral Act that impede the smooth functioning of democracy. It is worth trying an independent candidacy to stop those who infiltrate parties for personal aggrandizement. Ultimately, democracy can only flourish when the electorate, not the judiciary, determines who governs. Wherever possible, the courts should return disputed elections to the ballot box for fresh contests rather than assume the role of deciding winners.

CULLED FROM THE PUNCH July 15 2026 Editorial