

Nigerians, say no to beggarly judiciary

By Emmanuel Onwubiko

To foster and establish the 'rule of law' is to ensure that the judiciary is not only independent but appears to be independent, in order to gain the confidence of the public, so concludes a team of legal experts who did a very brilliant job on the theme of rule of law and ways to guarantee its integrity. These essayists say that the greatest danger to independence of the judiciary of any nation state, comes from the interference of—perceived or otherwise—government institutions or political parties. We will also make citations from a paper from the International Centre for Criminal Justice Reform and Criminal Justice Policy which examines the concept of judicial independence as it has been applied in the major industrialised nations. The paper very well argued that judicial independence is the ability of a judge to decide a matter free from pressures or inducements, and freedom of the institution from government or other concentrations of power. In their words, this concept is enshrined in the 1948 Universal Declaration of Human Rights, in the principles of equality before the law (Article 7), the presumption of innocence (Article 11) and the right to a fair and public hearing by a competent, independent and impartial tribunal established before the law (Article 10). These rights were further endorsed by the United Nations (UN) in its adoption in 1985 of the Basic Principles on the Independence of the Judiciary, and of the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary in 1989. Western industrialised nations, they said, have performed well, ensuring that judicial independence is upheld. Here are some of the general observations they made and there were that: Higher salaries have led to 'clean' government. In these countries, a 'legal culture' has developed where judicial bribery is virtually unknown

Most complaints about judges in major Western countries are not serious. Examples of such complaints are the use of improper language in court, 'intemperate' behaviour, delay in rendering decisions and verbal abuse of lawyers and witnesses in court. Other complaints relate to judges not being sufficiently sensitive to certain societal concerns such as the role of women in society and to equal treatment of minorities. In the US, judges are predominantly elected. This can present a danger to judicial independence as turnout is often low, and well-organised special interest groups and political groups can have a disproportionate influence. The loss of independence through campaign funding is also a problem in the US. There are many different legal systems in the major industrialised nations. All systems should be capable of providing impartial judges and an independent judiciary if the country concerned

incorporates the UN's Basic Principles into its constitution or laws and implements them. Specific principles to be upheld are: One constitutional principle that guarantees a legal template on judicial independence is the provisions containing the separation of powers: The judiciary must not have any contact with political parties—especially the party in power—and must limit contact with the executive branch to security, financial and administrative matters. Secondly, security of remuneration: The salary of judges should be fixed and secure.

Guaranteed tenure until retirement or expiry of office: Judges should only be removed or suspended for reasons of 'incapacity' or 'behaviour that renders them unfit to discharge their duties'. A key demand is that judicial appointment process must be fair meaning that the selection of judges should be made from people with 'integrity' and 'ability', with 'appropriate training and qualifications' and without discrimination. In Nigeria, deliberate effort was made by the framers of the constitution to enshrine provisions to safeguard checks and balances and the separation of powers. The Nigerian judiciary, as one of the pillars of a democratic society, plays a crucial role in upholding justice and the rule of law. However, recent events have raised significant concerns about the independence and integrity of the judiciary in Nigeria. Two notable incidents have transpired within the past few months, illustrating the worrying subservience of the judiciary to the executive arm of the government. The actions of the Chief Judges of the Federal High Court, Justice John Tsoho, and the Chief Justice of Nigeria, Olukayode Ariwoola, during these incidents, have shaken the foundations of the judicial system, making it appear beggarly and compromising its sacred role as the guardian of justice. The first incident that demanded attention occurred during a seminar organized by the Nigerian Judicial Institute in Port Harcourt for judges. This event took an alarming turn when the Chief Justice of Nigeria, Olukayode Ariwoola was caught on television praising Nyesom Wike, the Governor of Rivers State, and the G-5 governors. This unexpected display of political endorsement cast a shadow over the judiciary's impartiality and independence, making it seem like a mere pawn in the realm of Nigerian politics. The Chief Justice of Nigeria backed his kinsman and Oyo State Governor Seyi Makinde, for his membership of the G5, also known as the integrity governors. The five aggrieved Peoples Democratic Party governors (as they were) are Nyesom Wike, who is the leader, and Benue State Governor,

Samuel Ortom, who is the Chairman. Others are Abia State Governor, Okezie Ikpeazu, Seyi Makinde, and Ifeanyi Ugwuanyi of Enugu State. The aggrieved governors claimed to be calling for equity, fairness, and justice in the PDP, specifically insisting that the party's national chairman, Senator Iyorcha Ayu, must step down to pave the way for someone from the South to succeed him, since the party's presidential candidate, Atiku Abubakar, hails from the North. Ariwoola spoke during a banquet held in his honour by Rivers State Governor Wike (as he then was) in Port Harcourt on November 24, 2022. Ariwoola, also from Oyo State, was the Special Guest of Honour to commission projects completed by the Rivers State Government under Wike. He lauded Governor Wike for leaving a legacy in Rivers State worthy of emulation, saying Wike had said time and again he would continue to inaugurate projects until his last day in office. The CJN also commended the Governor for his support of the judiciary since his assumption of office in 2015.

He added, "The things that he (Wike) is bestowing on generations unborn will be hard to beat. That's why he says it all. Anytime he has the opportunity, he will say. Yes, he would not be in office forever, but whatever time he must spend in office, let it be spent very well." Continuing, he said, "All these things he's been doing is to put on record that human beings can at any time do far better. I was telling somebody that he (Wike) started far below being council chairman, and the Lord saw in him a son worth raising. "I have no doubt the sky is still the limit for Your Excellency. The whole world is seeing what you can do, seeing what you are doing, and wanting it replicated. It has to be replicated." The Chief Justice of Nigeria's praise for Nyesom Wike and the G-5 governors was highly problematic, especially considering the timing. It happened during the height of the 2023 presidential election campaign when Wike and the G-5 governors openly identified with the All Progressives Congress (APC). Such overt political affiliations by members of the judiciary, particularly those at the highest echelons, are not only unbecoming but also corrosive to the foundation of a just and impartial judiciary. What followed was even more troubling. Two days after the incident, the judiciary attempted to distance itself from the Chief Justice's remarks. However, the denial only served to further erode public trust and confidence in the judiciary. The discrepancy between what was seen on television and the judiciary's official response left many Nigerians bewildered and disheartened.

The incident raised questions about the judiciary's willingness to remain truly independent from the executive arm of the government. The second incident, which transpired recently, involved the Chief Judge of the Federal High Court, Justice John Tsoho. He was quoted in the media pleading with Nyesom Wike, now Minister of

the Federal Capital Territory for the allocation of land to judges in Abuja. Wike claimed that the President had instructed him to allocate land to judges, but he decided to wait until infrastructure was developed in those areas to ensure the judges had access to essential amenities. This situation raises numerous troubling questions. First and foremost, why should judges be placed in a position where they must beg for land from the executive arm of the government? The independence and integrity of the judiciary are essential to its function in a democratic society. Judges should not find themselves beholden to politicians for necessities like housing. This scenario is a stark departure from the principles that underpin the judiciary's role as an independent arbiter of justice. Furthermore, the question arises: if judges are asking for land from the executive, has the judiciary compromised its impartiality and integrity in return for these favors? The recent judgment validating the highly contentious election of President Bola Ahmed Tinubu raises concerns about whether the judiciary is being influenced by these gestures of goodwill. The judiciary should always prioritize the rule of law and fairness over political considerations. The Chief Justice of Nigeria and the Chief Judge of the Federal High Court were seen on television expressing gratitude to Nyesom Wike for his contributions to the judiciary. They commended him for using state funds to build infrastructure that would benefit the judiciary and, by extension, the people.

This display of gratitude, however well-intentioned, raises concerns about the optics and the perception of the judiciary's independence. When members of the judiciary openly thank a politician for using state funds for judiciary projects, it inadvertently implies that these initiatives were more about political favor than the execution of duty. This tarnishes the judiciary's image, making it seem like it is reliant on the executive for financial support. In a democracy, the judiciary's financial independence is essential to its role as a check on the executive and legislative branches of government. The recent incidents involving the Chief Justice of Nigeria, the Chief Judge of the Federal High Court, and their interactions with Nyesom Wike have exposed the Nigerian judiciary to allegations of subservience and compromise. The judiciary is meant to be the last bastion of justice, impartiality, and independence in a democratic society. It should not be begging for favors or compromising its integrity for political gain. To restore the credibility and independence of the Nigerian judiciary, it is imperative that the leaders of the judiciary prioritize impartiality, resist political pressures, and ensure that judges do not have to beg for basic amenities such as land. The judiciary must return to its rightful place as the guardian of justice and the rule of law, ensuring that it remains prostrate before no one, especially not the executive arm.