



# The Journal of Sustainable Development Law and Policy



ISSN: 2467-8406 (Print) 2467-8392 (Online) Journal homepage: <https://www.ajol.info/index.php/jsdlp>

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## Judicial Independence: A Recipe for Democracy in Nigeria

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**To cite this article:** Damilola S. Olawuyi, (2022). Judicial Independence: A Recipe for Democracy in Nigeria. The Journal of Sustainable Development, Law and Policy, 25:1, 1-16, DOI: 10.4314/jsdlp.v13i1.11

**To link to this article:** DOI: 10.4314/jsdlp.v13i1.11



Published online: 24 May 2022.

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## JUDICIAL INDEPENDENCE: A RECIPE FOR DEMOCRACY IN NIGERIA

(Text of a keynote lecture delivered at the 11th Aare Afe Babalola Annual Lecture organized by the Nigerian Bar Association (Ado Ekiti Branch), held at Afe Babalola University, Ado Ekiti, Ekiti State, Nigeria)

ISSN: 2467-8406

(Print)2467-8392 (Online)

**Damilola S. Olawuyi, SAN**

### 1. INTRODUCTION

It is indeed a great honour and pleasure for me to have been found worthy to deliver the 11<sup>th</sup> Annual Lecture in honor of a distinguished Nigerian, Nationalist, Pan-Africanist, farmer, bridge builder, consummate philanthropist, revered leader of the Bar, quintessential university administrator, and the Chancellor and Founder of Afe Babalola University, Ado Ekiti- Aare Afe Babalola, SAN, OFR, CON, LL.D (Lond.), FNAILS, FNSE FCI.Arb. Aare Afe Babalola, SAN is not just a revered legal titan; he is an unrepentant advocate of transformational leadership and public welfare in Nigeria. For over 50 years as our leader at the Bar, Aare Afe Babalola has carved a niche for himself as the constant purveyor of the truth, who never hesitates to voice his opinion on established ideals of democratic constitutional governance and people-oriented governance in Nigeria.

As lawyers, we were taught that there are five key sources of law: (1) International law; (2) received English law; (3) domestic statutes and laws; (4) Case law (5) opinions and publications of eminent scholars. In fact, among the most oft-cited and globally famous quotes on the sources of law is the opinion of Justice Gray of the United States Supreme Court in *The Paquete Habana* case, 175 U.S. 677 (1900), wherein the learned judge noted that:

“where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations, and, as evidence of these, to the works of jurists and commentators who by years of labor, research, and experience have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals not for the speculations of their authors concerning what the law

ought to be, but for trustworthy evidence of what the law really is.”

Bringing these words home to Nigeria, it is an incontrovertible fact to any lawyer or student of law in Nigeria that through many years of labor, research, and experience, Aare Afe Babalola SAN has remained the most trustworthy evidence and source of what the law really is, when it comes to constitutional law and transformational good governance in Nigeria. Successive and intelligent governments in Nigeria have therefore realized one constant truth: like him, loathe him, praise him, or disagree with him, but you can never ignore the indispensable prescriptions and wise counsel of Aare Afe Babalola, SAN. His impeccable recommendations, ranging from his landmark courtroom advocacy, cerebral book publications, in-depth weekly newspaper commentaries and incisive TV interviews, have been and will forever remain the essential foundation, bedrock, and source of law in Nigeria.

As a committed AFEIST myself, I know that one of the most passionate ambitions of Aare Afe Babalola, SAN is to see a vibrant, active, and innovatively independent judiciary in Nigeria. For many years, Aare has lamented the gradual annihilation of the ethos of judicial independence in Nigeria. For example, in 2019 in a press release titled "Judicial Independence under threat in Nigeria, warns UN human rights expert", the United Nations expressly condemned the rising trend of executive interference, raiding of homes of judges, and the arbitrary dismissal of the then Chief Justice of Nigeria, as follows:

International human rights standards provide that judges may be dismissed only on serious grounds of misconduct or incompetence. Any decision to suspend or remove a judge from office should be fair and should be taken by an independent authority such as a judicial council or a court. The dismissal of judges in Nigeria without following procedures laid down by the law and without effective judicial protection being available to contest the dismissal is incompatible with the independence of the judiciary.

Similarly, in a recent Judicial Independence Ranking released by the World Economic Forum, which measures the level of judicial independence in countries across the world, Nigeria was ranked number 82, out of 137 countries, one of the worst rankings for a democratic country. A closer look at the ranking sadly reveals that Nigeria is even below some war-torn, despotic, and military-run countries when it comes to judicial independence. Even China (ranked 46), Saudi Arabia (30), North Korea (72) and Iran (81) amongst others rank better than Nigeria in terms of judicial independence.

These are indeed worrisome and glaringly underwhelming statistics for a so called federal and democratic nation. As key stakeholders in the justice delivery system, today's lecture provides a timely opportunity for us to interrogate and x-ray the threats to judicial independence in Nigeria and the essential steps required to address and eliminate such threats.

## UNDERSTANDING JUDICIAL INDEPENDENCE

In his most recent treatise titled, *The Elusive Search for Nation Nigeria*, Aare Afe Babalola SAN, stated as follows:

The judiciary is the third arm of government in a democratic society. It is expected to dispense justice without fear or favour. To permit any interference with, or usurpation of the authority of the courts, as aforestated, will be tantamount to striking at that bulwark, which the constitution in any democratic state or society gives and guarantees to the citizens in terms of fairness to him against all arbitrariness and oppression. The preservation of and non-interference with the independence of the judiciary and the jurisdiction of the court are so important, if not indispensable, to good governance in a democratic state.

The legal luminary rightly defines judicial independence as the

principle that the Judiciary should be independent from the other branches of government. It includes the ability of courts and judges to perform their duties free of influence or control by other actors, whether governmental or private.

The history of the concept can be traced to as far back as 1701 under the *English Act of Settlement* which explicitly shielded judges from unilateral dismissal or removal by the crown. Flowing from the notion of separation of powers of the three arms of government, this Act emphasized the idea that if judges enjoy continuity of tenure devoid from the whims and caprices of the Queen, then individual judges will find themselves at liberty to deliver justice without fear or favour. Since 1701, judicial independence has therefore remained an important cornerstone of domestic and international law. For example, in 1985, the United Nations adopted an important document known as the *UN Basic Principles on the Independence of the Judiciary*, which provides *inter alia* that:

The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision.

It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

Similarly, *the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa 2003* adopted by the African

*Union* provides that:

The independence of judicial bodies and judicial officers shall be guaranteed by the constitution and laws of the country and respected by the government, its agencies and authorities.

All judicial bodies shall be independent from the executive branch.

The sole criteria for appointment to judicial office shall be the suitability of a candidate for such office by reason of integrity, appropriate training or learning and ability.

From the foregoing, the key question that I will be unpacking today is: to what extent has Nigeria attained these international law standards and norms on judicial independence?

#### **A. Duty to guarantee judicial independence in the constitution and statutes**

Flowing directly from English received laws, and international law, Nigerian law clearly recognizes the principle of judicial independence. Section 6 of the 1999 Constitution vests judicial powers solely in the Courts. It created the Supreme Court of Nigeria, the Court of Appeal, the Federal High Court, the High Court of the Federal Capital Territory, Abuja, the High Court of different states, the Sharia Court of Appeal of the Federal Capital Territory, Abuja, the Sharia Court of Appeal of the States, the Customary Court of Appeal of the Federal Capital Territory, Abuja, the Customary Court of Appeal of the States, and such other courts as may be authorized by law to be made by either the National Assembly or the State Houses of Assembly.<sup>1</sup> These courts, including the National Industrial Court, constitute the hierarchy of superior courts in Nigeria.<sup>2</sup>

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<sup>1</sup> Section 6(5)(a)-(j) of the 1999 Constitution.

<sup>2</sup> See generally Constitution of the Federal Republic of Nigeria (Third Alteration

In order to ensure the independence of the judiciary, Section 153 of the 1999 Constitution established the National Judicial Council (NJC). The powers of the NJC as spelt out in item (i) paragraph 21(a) to (i) of the Third Schedule (part 1) to the Constitution include the powers to: recommend the appointment and removal of judges at all levels; collect, control and disburse all moneys, capital and recurrent, for the judiciary; disciplinary control of judges and judicial staff; advise the President and Governors or any matter pertaining to the judiciary; as well as control of broad issues of policy and administration.

Similarly, in order to ensure financial independence and autonomy, Section 81(3)(c) of the Constitution specifically states that: "The amount standing to the credit of the judiciary in the Consolidated Revenue Fund of the Federation shall be paid directly to the National Judicial Council for disbursement to the heads of the courts established for the Federation and the State under section 6 of this Constitution."

Furthermore, in order to ensure adequate remuneration for judges, *The Pensions Rights of Judges Act, Cap P5, 2004 Laws of the Federation as amended by the Pension Rights of Judges (Amendment) Act, 2016*, provide that judges who put in not less than 15 years are to be paid pension based on a wide range of parameters which depend on the category of each judge. It also makes provisions for salaries of domestic staff and benefits for judges who get incapacitated on the line of duty.

These provisions show a clear legislative intention to preserve the sanctity and organizational autonomy for the judiciary so as to make it hard for any other arm of government to capture, co-opt or frustrate the judiciary from performing its primordial functions as custodians of the rule of law.

**B. Independence from restrictions, improper influences, inducements, pressures, threats or interferences, direct or**

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Act), 2010.

**indirect, from any quarter or for any reason**

Evidently, Nigerian law, in principle, recognises judicial independence. However, in practice, implementation of the norms of judicial independence remains very weak and near non-existent in Nigeria. The advent of military rule and military culture, in Nigeria has greatly impacted the rather delicate democratic structure under which the country operated pre- independence.

While the military did not abolish the judiciary, the practice of executive coercion of the judiciary became the norm under successive military governments. The perennial intimidation, arrests, detention, and disappearance of judges, as well as arbitrary dismissal of judges by military rulers perpetuated a culture of judicial subjugation which seriously undermined judicial independence during the military era. Military tribunals were also routinely set up to perform the lawful function of the judiciary without any reference or regard to the Courts. For example, the first military coup in Nigeria in 1966, led to the establishment of *Decree No. 3 of 1966 (State Security Detention of Persons)*, which gave a clear indication that the significance of the Courts in the dispensation of justice would be eroded. Section 6 of the Decree suspended the Constitution and ousted the jurisdiction of the courts to inquire into the validity of the decree. The decree also gave the military government at the time the power to detain persons, including judges, for such periods as it deemed fit.<sup>3</sup> Subsequent military governments followed this pattern of constant erosion of the independence of the judiciary in the dispensation of justice. Unfortunately, after more than 22 years experiment with democracy in Nigeria, this military culture of restrictions, improper influences, inducements, pressures, threats, or interferences with the judiciary remains deeply entrenched till today.

Under so called democratically elected, but military minded leadership in Nigeria, there have been published cases of gestapo invasion and midnight raids of the homes of judges by security operatives; arrests of judges on trumped up charges of corruption; and most worrisome is the arbitrary dismissal of a sitting Chief

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<sup>3</sup> Afe Babalola, *The Elusive Search for Nation Nigeria* (Afe Babalola University Press, 2021). See also M.H. Kuka - Witness to Justice: An Insider's Account of Nigeria's Truth Commission, Ibadan



Justice of Nigeria, an act which as indicated by the United Nations, is totally unprecedented in the entire Commonwealth history. Recently, we also heard a sitting Executive Governor describing the decision of a Federal High Court as "jungle justice" and labelling His Lordship as "a hatchet man" that should not be paid any attention, which attracted the rage and condemnation of the Nigerian Bar Association.<sup>4</sup> Not to mention the several wanton disregard of court decisions by law officers at state and federal levels.

Evidently, while the 1999 Constitution makes it clear that the NJC is the only body imbued with the jurisdiction and competence to investigate judicial officers for professional misconduct, in reality and despite Nigeria's "return" to democratic governance, we continue to operate under a pungent military culture in which executive rascality, habitual disregard, intimidation, coercion and restriction of the functions and influences of judges remain the norm.<sup>5</sup>

#### **A. Independence in the Appointment and Discipline of Judicial Officers**

The sole criteria for appointment to judicial office shall be the suitability of a candidate for such office by reason of integrity, appropriate training or learning and ability.

As indicated by the above UN and AU declarations, the process of appointment, promotion and discipline of Judicial Officers must be free from executive manipulation, influence, or coercion.

In the 1960s, the appointment to the Bench was strictly on merit. At that time, appointments were by invitations. Judges were always quick to identify legal practitioners who possessed sterling qualities suitable for appointment to the Bench. This was the era that produced Taslim Olawale Elias, SAN, NNOM, a Professor of Law, Dean of Law, Senior Advocate of Nigeria, and Attorney General of the Federation, who later became Chief Justice of Nigeria and the President of the International Court of Justice. This era also had the likes of Augustine Nnamani, CON, a former

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<sup>4</sup> You're A Hatchet Man' - Umahi Attacks Judge, Insists He's Still Ebonyi Governor  
"https://thewhistler.ng/youre-a-hatchet-man-umahi-attacks-judge-insists-hes-still-ebonyi-governor/"

<sup>5</sup> See 'DSS Midnight Arrest of Judges: Legal Issues and Recommendations' by Aare Afe Babalola, OFR, SAN - Vanguard Newspaper of 11th October 2016

Attorney General of the Federation who later became a Justice of the Supreme Court of Nigeria. The appointment of judges solely on the basis of merit, sound knowledge of the law, integrity and honour marked out and propelled the finest and most competent persons appointed in those days to the Bench. The advantages of this were obvious. Firstly, it ensured that only the brilliant and of proven integrity were so invited. Secondly, it ensured that those who eventually joined the Bench were passionate about making a career on the bench and contributing their quota to national development. In some cases, such appointees gave up thriving private practices to take up Judicial appointments. In doing so, they found more motivation and inspiration in what they could give to the development of the law from the Bench.

What do we see today? appointment to the Bench is seen by many as an easy way out from the demands of private law practice. Some aspire to the Bench to enjoy the perks and privileges of judicial office without giving adequate thought to the demands and responsibilities of the position. Furthermore, appointment of the judiciary is now tied to federal character, political connections, and other considerations beside merit which makes it very easy for any political jobber who cannot build a successful legal practice to be smuggled into the judiciary and make his or her way up even to the apex court.

Perhaps in order to address this rot, on January 19, 2022, the Chief Justice of Nigeria (CJN) Justice Ibrahim Tanko Muhammad, in his letter to the Nigerian Bar Association (NBA), invited applications from practicing lawyers for the next round of appointments as Justices of the Supreme Court.

The Honorable CJN's action is commendable and is in line with practice in other common law jurisdictions with similar legal cultures as Nigeria, including the United Kingdom, United States of America, Australia, Ireland amongst others. For example, just about a year ago, Professor Andrew Burrows, QC was appointed directly from Oxford University to the UK Supreme Court without any previous experience on the Bench, and we have had several other similar appointments in Australia.

The society is evolving, so our judicial appointments should reflect this contemporary reality and not remain static. The judiciary should assert its independence by looking beyond

mundane and political considerations in the appointment and promotion of judges.

First, such broad-based and independent appointments will promote institutional diversity in decisions. Multi-judge courts of appellate jurisdiction, such as the Supreme Court, should reflect a wider range of experience and deep expertise in niche and emerging fields of law. Secondly, lawyers and legal academics will bring theoretical and analytical soundness that will be a natural fit for the types of cases that arise in the Supreme Court. Third and most importantly, by widening the pool of eligibility, then we will never have to sacrifice merit for other irrelevant considerations. Like in other advanced societies, our topmost consideration should not be whether someone has been on the bench for decades, but on their intellectual capacity, personal qualities, ability to understand and deal fairly, contributions to legal jurisprudence, communication skills and technological efficiency.

**A. Obligation to provide adequate resources to enable the judiciary to properly perform its functions.**

It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

The above AU declaration recognizes the provision of necessary resources including finance, technology, and decent wages for the judiciary as an indispensable foundation for judicial independence.

Yet, we have seen a perennial failure of governance in Nigeria when it comes to the welfare and infrastructure of the judiciary. Our courtrooms have become fitting depictions of the sorry state of the Nigerian nation as a whole. Ranging from the decayed, age-worn, and deplorable state of court rooms across Nigeria, to the erratic electricity without any alternative power source, lack of air conditioners and absence of functional computers and ICT facilities needed for the conduct of legal business. Furthermore, there are several reported cases of lawyers fainting in Court due to absence of proper ventilation. It has also been reported that judges of some area courts in Adamawa State conduct proceedings under trees or debris.<sup>6</sup> Lamentably, there is also a Nigerian court

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<sup>6</sup> <https://punchng.com/adamawa-judges-holding-proceedings-under-trees-nba/>

which effigy of justice is slanted and supported with a wooden stick!

The state of the Nigerian judiciary was laid bare during the pandemic when several countries rapidly deployed ICT facilities to ensure online dispute resolution. Due to lack of reliable internet, ICT and electronic justice platforms, for several months, access to justice was halted across the nation, especially in rural communities. Similarly, Nigerian judges, unlike their foreign counterparts, continue to record proceedings in long hand due to the absence of ICT telerecording facilities. Hours of long writing takes its toll on the overall health and wellbeing of judges who may have more than a hundred pending cases.

More worrisome is the lamentable and unattractive remuneration and benefits for judges. Nigerian Judges still rank among the least paid in the world, while in several cases, Judges are owed several months' salary.

In his book, *The Elusive Search for Nation Nigeria*, Aare Afe Babalola, SAN revealed how low the salaries of judges in Nigeria rank in comparison to their counterparts across the world.

*Salaries of Judges (Per Annum)*

CHIEF JUSTICE

	NIGERIA (N)	SOUTH AFRICA ®	UNITED KINGDOM (£)	UNITED STATES (\$)
Equivalent in Naira	6,727,955.69	32,116,114.38	70,585,007.04	44,487,675.00

Aare Afe Babalola rightly noted:

While some hold the view that appointment as a Judge carries with it a prestige which may compensate for fantastic or adequate pay, the fact remains that prestige

alone may not be enough to put food on the table.

In buttressing this point, the Chief Justice of Nigeria Hon. Justice Tanko Muhammad recently lamented:

Be that as it may, when we assess the judiciary from the financial perspective, how free can we say we are? The annual budget of the judiciary is still a far cry from what it ought to be. I make bold to say that the salaries of judicial officers in Nigeria are still far from an ideal package to take home. Effort should be made by the relevant authorities to increase the salary and also work out measures to improve the welfare package of judicial officers, especially after retirement.<sup>7</sup>

The average "budget allocated to judicial systems" in Nigeria (defined as budgets allocated to courts, public prosecution services and legal aid) has remained one of the lowest in the world for the last 10 years. While in many parts of Europe, the average budgetary allocation range from about 6-10 percent of national budgets, allocation to the judiciary in Nigeria has dropped drastically from 2.2% in 2011 to 0.84% in 2021.

Year	Allocation to judiciary (percentage of total budget)
2011	2.2%
2012	1.7%
2013	1.3%
2014	1.3%
2015	1.6%
2016	1.1%
2017	0.9%
2018	0.9%
2019	0.9%

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<sup>7</sup> Read more: <https://www.legit.ng/1261040-nigerias-judiciary-financial-bondagecjin>

2020	0.9%
2021	0.84%

Source: "Judiciary Bleeds with N110B Yearly Budget"<sup>8</sup>

While the volume of cases heard by courts have increased geometrically, as well as the number of appointed judges, it remains incomprehensible why the level of funding has decreased significantly over the last eight years.

Like many sectors in Nigeria, the poor and lamentable working conditions of judges has provided an incentive for judicial corruption and sharp practices. With several publicized cases of brazen bribery and fund transfer to judicial officers, as well as documented evidence of internal corruption in the judiciary in terms of appointment, promotion and case file allocation in the judiciary, prestige, sanctity, and independence of the judiciary have been vastly eroded in Nigeria.

The foregoing reveals how a combination of gaps in the Nigerian legal framework, as well as poor commitment of governments at various levels to the financial and institutional empowerment of the judiciary, continue to weaken judicial independence in Nigeria.

## **2. ADVANCING JUDICIAL INDEPENDENCE IN NIGERIA: WAYS FORWARD**

### **a. Constitutional Reform to ensure independence in appointment process.**

One of the most fundamental threats to development and progress in Nigeria is the 1999 Constitution which was foisted upon the Nigerian people by the military government. For example, the fact that appointments of Judicial Officers in Nigeria as stipulated in Section 270(2) of the 1999 Constitution, are made by the Governors upon the recommendation of the National Judicial Council is one capable of abuse and therefore further eroding the independence of the Judiciary. All that the National Judicial Council does is to recommend based on factors

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<sup>8</sup> <https://leadership.ng/judiciary-bleeds-with-n110b-yearly-budget/>

such as vacancies and suitability of candidates. Where the Governor proceeds to make the appointment based upon the recommendation of the Council, the appointee may feel a sense of loyalty to the Governor who appointed him.

This amongst other lopsided provisions of the 1999 Constitution is why Aare Afe Babalola, SAN recently called for the suspension of the 2023 elections until Nigeria is able to put in place what he described as:

a new-look peoples' Constitution which should provide for part-time legislators and non-executive president. This regime has failed the country politically, economically, security wise and so on. So, let them leave a legacy that shows they are still interested in the people. It is very easy. It has been done in other countries.

The timely intervention of the Learned legal luminary has received widespread support from Nigerians home and abroad, especially from the poor and underprivileged Nigerians who continue to feel the increasing pains of poverty, hunger, insecurity, kidnappings, killings, incessant ASUU strikes, collapsed road, health, aviation, and other infrastructures in all key sectors, and generally increasing sense of overwhelming hopelessness in Nigeria. Nigeria's democracy sits very gingerly on a lopsided and defective constitution that concentrates excessive powers at the federal level, strangulating the states and local governments, thereby making true federalism near impossible in Nigeria. Without true federalism, the increasing malaise of the Nigerian nation, which continues to manifest through political, social, and economic instability, pervasive insecurity, entrenched corruption, judicial interference, and institutional rot across all key sectors, may only worsen and become progressively unmanageable.

The best legacy that the outgoing government can leave for Nigerians is a true peoples constitution. Now is therefore an important point in our national history when all well-meaning and patriotic Nigerians must join their voices with that of Aare Afe Babalola, SAN, to consistently demand for true constitutional rebirth and restructuring in Nigeria. Conducting another election under the framework of the 1999 Constitution is tantamount to doing things the same way and expecting different results. The

current constitutional arrangement will only perpetuate elite capture in Nigeria, i.e., the continued entrenchment of wealth, powers, resources, and influence in the hands of a few self-ratifying individuals, to the detriment of the Nigerian people. When you look at the massive and unexplained wealth of some former governors, and even former local government chairmen, in Nigeria, then the deep and endemic nature of the malaise of elite capture in Nigeria becomes crystal clear. True constitutional reform is required if we do not want to produce another fleet of transactional and self-satisfying leaders who are largely disconnected from the sufferings of the poor masses that reside outside of Abuja.

**b. Ensure financial autonomy**

In addition to the need to urgently increase the level of budgetary allocation for the judiciary to no less than 5%, there is also a need to ensure the financial independence and autonomy of the judiciary. Last year, the entire justice sector was sent to a halt by the strike action embarked upon by the Judiciary Staff Union of Nigeria (JUSUN) to protest the lack of financial autonomy of courts. Contrary to the provisions of Section 81(3)(c) of the Constitution which mandates the direct payment of funds to the judiciary, the judiciary of most states is being funded through states' ministries of finance. As a result of that strike action, a number of state governors, including Ekiti State, have promptly signed State Judiciary Autonomy Bills into law. While the spate of approval of such laws have been commendable, there is a need for all stakeholders to ensure the implementation of the laws in order to secure true independence for the Judiciary. States that are yet to pass judicial autonomy bills must urgently to do so as well.

**c. Ensure the rapid digitization of the judiciary**

Over the last months, in response to the pandemic, lawyers across the world have rapidly embraced online meetings, virtual court appearances, online dispute resolution, as well as online legal education. These measures must be understood in Nigeria as the new normal. In order for the Nigerian judiciary to keep pace with these ongoing transformations, there is an urgent need for governments at all levels to urgently address the current infrastructure deficits in our courts to make them innovative and technology driven.



In addition to technological, digitalization, financial and ICT needs, there is a need to also provide the necessary training and ICT support needed to drive the implementation of electronic justice (e-justice) systems in Nigeria. For example, countries such as Ireland, the Netherlands, and the United Kingdom have already introduced online courts to deal with small claims. Similarly, online filing of all court documents, digital case management systems, and online civil service have been introduced to modernize the justice delivery system. As can be learnt from these jurisdictions, implementing effective e-justice systems will require e-justice tools, defined as "the availability of technology, information and communication for the administration of justice, both in terms of logistics and in terms of conducting hearings."

Court rules will also need to be updated to allow:

- giving evidence via video-conferencing
- virtual swearing in of witnesses
- distant participation of all required attendees
- public broadcast for public hearings in order to preserve open and transparent justice
- conduct of the trial and familiarisation of attendees with the technology used
- setting up video conference infrastructure to secure the quality of the proceedings

There is also the need for capacity development of judges through exposure to foreign best practices, developmental trainings, and seminars, especially in niche areas of law such as energy, environment, and telecommunications law amongst others. As Co- Chairman of the Legal Education Committee, we are working tirelessly with NBA branches and stakeholders to provide the judiciary with training and education opportunities, both home and abroad, that will help to hone vital judicial and technology skills needed for the effective administration of justice. We look forward to working with Ado Ekiti Branch in this area to collaboratively provide tailored training programs and support to the judiciary in Ekiti State.

## 2. CONCLUSION

A strong, effective, accountable and independent judiciary is a pre-requisite for sustained national development and the growth of the Nigerian democracy. An independent judiciary will secure the rights of the downtrodden and ensure that anyone that violates the law is brought to book in a timely manner, irrespective of the offices they occupy or their societal status. However, for several decades, the search for judicial independence has remained incomplete in Nigeria.

Without addressing the old developmental challenges, mainly of an abysmally defective constitutional order, poor infrastructure in our courts, lack of technology and innovation, and limited opportunities for capacity development and training for judges, achieving judicial independence and progress will remain very difficult. As lawyers, we have pivotal roles as the conscience and heartbeat of the nation. We must therefore consistently lend our voices to promote judicial independence and improved access to justice in Nigeria. This is the Aare Afe Babalola philosophy (AFEism) which we must all strive to defend, inculcate, and emulate.

Let me once again express my deepest gratitude to the Chairman and members of the Executive Council of the Branch for sustaining this important lecture series in honour of our indefatigable Father, Founder and Mentor, Aare Afe Babalola, SAN, OFR, CON.



