

***Full Length Research***

# **Conspiracy and Violation of Constitutional Proviso in a Liberal Democratic System: The Experience of Walter Onnoghen, Former Chief Justice of Nigeria**

**Ukwuije, Chima B.**

Directorate of Academic Collaboration and linkages, Alvan Ikoku Federal College of Education, P. M. B. 1033 Owerri.  
E-mail: bonchuk2002@gmail.com

Accepted 12 January 2021

Separation of power is mainly to check abuse of power, undue interference and dominance in one aspect of national life, decision making or implementation of public programmes and projects by an arm of government. As such, the administration of the State was divided among the tires of government; each with constitutional definition of powers and function. A situation where an arm of government jumps the constitutional process or usurps the powers of the other arms of government is considered to have emanated from conspiracy. Conspiracy is an enemy of democracy because it undermines democratic values like due process, rule of law; while encouraging continuity of the ruling class even if it is achieved at the expense of the citizens and contravention of the law. Conspiracy of the Northern politicians is what armed the President to overlook the constitutional proviso in section 292 (1) of the 1999 Constitution as amended to suspend the immediate past CJN, Justice Onnoghen. Unfortunately, it has created an indelible dent in the history of Nigerian judicial system. In democratic systems, there is politics behind every government action, but why it is worrisome in Nigeria is because it has always been retrogressive and opposed to democracy and development. The President did not start with Onnoghen neither did he stop after him. There are several other appointments made by him which confirms the conspiracy of the Northern politicians. The present administration is helping the North to dominate every aspect of government machinery without minding the provisions of the Federal Character Principles.

**Keywords:** Conspiracy, constitution, democracy, Onnoghen

**Cite this article as:** Ukwuije, C.B. (2021). Conspiracy and Violation of Constitutional Proviso in a Liberal Democratic System: The Experience of Walter Onnoghen, Former Chief Justice of Nigeria. *Int. J. Polit. Sci. Develop.* 9(1) 31-40

## **INTRODUCTION**

Political process devoid of democracy is tantamount to militarism, where the elected political class will be far from the reach of the people. As such the system will be

composed of a democratically elected administration but without practicable democratic values. A society without substantial rudiments of liberal democracy fails easily, because the will of the masses which should have been their primary concern will not matter to the elected

officials but the state objective which may be far from the welfare of the people. What this implies is that without liberal democracy, national unity, foreign policy and military sophistication will be top list in the national budget and administrative policies of the country leadership rather than health, education, infrastructure, poverty eradication and citizens' welfare.

### **Liberal democracy and politics**

Liberal democracy is indeed a modern form of government which emphasis people's accountable representation. In fact, scholars like Almond, Duvenger and Downs have argued that institutional arrangement, in particular the number of parties are directly related to both the quality and stability of democratic polity. Some of the features of liberal democracy include:

- ◆ Good Governance
- ◆ Independence of the Judiciary
- ◆ Existence of such institutions as political parties
- ◆ The rule of law
- ◆ Freedom of speech and association

(Hayatudeen, Mohammed, Jamri & Bako 2011)

Most countries in the developing world claim to be practicing democracy but many of them are not applying the liberal democratic principles. Any democratic system that is not liberal in nature and approach is a semi-dictatorship and hardly can such government concern itself with the welfare of its citizens. Some ingredients of liberal democracy which are no less important include existence of healthy and competitive political parties; sound electioneering process, guided by legal provisions or framework; guaranteed fundamental freedoms in full practice and in accordance with the law, freedom of the press and the individual self-expressions through every democratic channel and the trending social media. It also advocates rule of law and due process.

### **Brief account of Justice Onnoghen's nomination, accusation and dismissal**

Justice Walter Samuel Nkanu Onnoghen, a native of Okurike town in Biase Local Government Area of Cross River State became the Chief Justice of Nigeria (CJN) upon his nomination by the Vice President, Prof. Yemi Osinbajo. He was sworn-in on Monday, March 6, 2017. Onnoghen was humiliated by indefinitely suspending him as the CJN on January 25, 2019 and barred him from holding public office for ten years following series of allegation bothering on corruption and false declaration of

assets. These allegations were put against him by a civil right group known and called the Anti-Corruption and Research Based Data Initiative and sent to the Code of Conduct Bureau and Economic and Financial Crimes Commission (EFCC).

In their petition, they expressed serious concern about the flagrant violation of the law and constitution of Nigeria by Justice Walter Onnoghen, the CJN. Specifically, they stated that facts on ground indicate that the leader of the judicial arm of the country is involved in suspected financial crimes and breach of the Code of Conduct Bureau and Tribunal Act. According to Oak TV Newstrack (2019) Onnoghen was accused of sundry accounts primarily funded through cash deposits made by himself up to as recently as 10 August 2016, which appear to have been run in a manner inconsistent with financial transparency and the code of conduct for public officials.

Following an Ex Parte Order of the Code of Conduct Tribunal (CCT), dated January 23, 2019, which was signed by the Chairman of the Code of Conduct Tribunal, Hon. Danladi Y. Umar and Hon. (Mrs.) Julie A. Anabor. The order directed that Justice Onnoghen should step aside as the CJN and Chairman of NJC pending the determination of the motion on notice dated January 10, 2019.

The Federal Government filed an application to commence trial against Justice Onnoghen on a six count charge at the Code of Conduct Tribunal on January 10, 2019. In the application by the Federal Government, Onnoghen was alleged to have failed to declare some of his assets, including about \$3million, which were lodged in five domiciliary and Naira accounts respectively in Standard Chartered Bank with the following account details:

- ◆ USD account No. 870001062650;
- ◆ Euro account No. 93001062686;
- ◆ Pound Sterling A/C No. 285001062679;
- ◆ e-Saver Savings (Naira) account No. 5001062693;
- ◆ Naira A/C No. 010001062667.

In the account as alleged, Onnoghen made five cash deposits of \$10,000 each on March 8, 2011 into Standard Chartered Bank Account 1062650; two separate cash deposits of \$5000 each and four deposits of \$10,000 each on June 7, 2011. He also made five similar cash deposits of \$10,000 on June 27, 2011, and another four deposits of \$10,000 each the following day.

Although, the tribunal sat on January 22, but they adjourned to January 28 to rule on the preliminary objection filed by Justice Onnoghen, challenging the jurisdiction of the CCT to try him. According to the conventional legal practice, once the jurisdiction of a

court or tribunal is challenged, further hearing and legal procedure will be suspended until the jurisdiction of that court or tribunal is determined. It is only the National Judicial Council (NJC) that has the jurisdiction to try Onnoghen as the CJN and not the tribunal. What the President is in the Executive Arm of Government is what the CJN is in the Judicial Arm of Government just like the Senate President in the Legislative Arm of Government. They have coordinate jurisdiction and no one is subservient to the other.

Onnoghen was accused of false assets declaration and operating a foreign bank account. He was accused of operating a foreign account but the truth is that he only maintained a domiciliary account, which is a type of account that is operated with foreign currencies. It is not and cannot be regarded as a foreign account because it was opened in Nigeria though it can be operated both locally and internationally. The accounts were opened in Standard Chartered Bank in 2009.

When it became clearer beyond doubt that if they continue to claim that the accounts is a foreign account instead of a domiciliary accounts, which had in it deposits of foreign monies, the investigation now turned to determining the source of such huge sums of foreign currencies deposited in those accounts. The claim was that the USD were not earned by Onnoghen as his salaries and allowances, meaning that he may have gotten some from illegitimate means in addition to his estacodes.

Meanwhile what was contained in the petition by the Anti-Corruption and Research Based Data Initiative was that Justice Onnoghen did not declare assets immediately after taking office, contrary to section 15 (1) of the Code of Conduct Bureau and Tribunal Act. It is a constitutional obligation for public officers to declare their assets every four years during their career. In as much as he did not declare it within fifteen months as stipulated by the law but for the fact that his Code of Conduct Bureau Form (Form CCB 1) for 2014 and 2016 were dated and filed the same day, December 14 2016, Justice Onnoghen is therefore, according to the provisions of this Act in Section 15 (1a), supposed to declare his assets again in 2020.

If non-declaration of assets immediately after taking office as the Chief Justice of Nigeria (CJN) was enough to relieve him of his duties and position, they should have allowed the law to take its full cause. The fact that they shortened the entire process is enough to suspect a crude and indecent intentions. Justice Onnoghen was seen as a fairly straight-forward man that knows his onus well and in whose office every election petition will be given a final judgment. As such, his presence and position as the head of the judicial arm of government was a threat the success-intention of the APC in the 2019 political quest.

On Friday, January 25, 2019, the same day Justice Onnoghen was suspended, Justice Ibrahim Tanko Mohammed (a Northern Muslim) was sworn in as the Acting CJN. Ibrahim Tanko holds a Bachelor of Law (Sharia) and he was a former Judge of the Sharia Court of Appeal. His nomination and continuous stay in office as Acting CJN up to April 25, 2019 was in contravention of section 321 (4 & 5) of the 1999 Constitution of Nigeria as amended.

On Wednesday, April 3, 2019 Mr. Soji Oye, the Director of Information, Nigerian Judicial Council stated that the Five-Man Committee of NJC have concluded their investigation on the petition against Justices Onnoghen and Tanko Muhammadu. The concluded investigation, which they forwarded to the President in a report did not look into the non-declaration of assets that Justice Onnoghen was accused of because it was sub-judiced in Code of Conduct Tribunal. In that report, it was recommended that Justice Onnoghen having lost the moral justification to continue as the CJN because of the number of allegations relating to misconduct that are levelled against him, be made to proceed on a compulsory retirement.

Finally, Justice Onnoghen in consideration of his integrity and reputation honorably resigned his position as the Chief Justice of Nigeria (CJN). The letter wherein the expression of intention to resign his position was contained was submitted to the presidency on Thursday, April 4, 2019. Perhaps, it may be argued that his decision to resign his position stemmed from the content of the report submitted by the National Judicial Council to the Presidency through the Chief of Staff Mr. Abba Kyari in the presence of the Attorney-General and Minister for Justice, Abubakar Mailami. This may count because his action is in consonance with recommendations of the National Judicial Council but that is not all to it. He decided to resign mainly to maintain his dignity and honour, having made an indelible mark in the Nigerian judicial system. It will amount to nothing if he should allow himself and his reputation to be thrown to the mud. So, he quickly made that timely, important and appropriate decision.

### **Content Analysis**

Content analysis is a time consuming research tool used mainly in qualitative research exercises to determine the presence of certain words, themes and concepts as contained in qualitative data to methodically analyse in details, or establish the meaning and/or the relationship between such words, themes or concepts. According to Schreier (2012) and Downe-Wamboldt (1992) qualitative content analysis is one of the several qualitative methods currently available for analysing data and interpreting its meaning. As a research method, it

represents a systematic and objective means of describing and quantifying phenomena.

In politics, nothing is considered less important until success is achieved and that is why in Nigeria, even lunatics, imbeciles and almajiris (helpless street panhandlers and mendicants) have voter's card. The pursuit of political power was given a desperate holistic approach by the APC in 2019. That was why they never wanted to entertain any excuse or failure especially at the national level and some states of special socioeconomic, political and religious interests.

The suspension of Justice Onnoghen is not only inglorious, it is also indefensible because he was not convicted by any court or even the tribunal. The President cannot just suspend him on the orders of a tribunal. His suspension attracted reaction from different strata of the society: Politicians, Lawyers and Human Right Activists. Even, the international community, not minding Nigeria's already dented image also reacted to his suspension. Obviously, "a State with an image crises is difficult to advertise in the "diplomatic market" (Egwemi 2010: 134). The National Interest Defenders and Lawyers protested against his suspension at the entrance of the National Headquarters of the Nigerian Bar Association. The PDP Presidential candidate, Alhaji Atiku Abubakar described it as a "dictatorship taken too far". The Nigerian Bar Association through their President unequivocally rejected it. They referred to it as an attempted coup against the Nigerian Judiciary and evident suspension of the Nigerian Constitution by the Executive arm of the federal government (Usono 2019).

### **Constitutional provisions for the three arms of government**

The federal government of Nigeria is composed of three distinct branches: legislative, executive, and judicial, whose powers are vested by the Constitution of Nigeria in the National Assembly, the President, and the Federal Courts, including the Supreme Court, respectively. The Constitution provides a separation and balance of powers among the three branches and aims to prevent the repetition of past mistakes made by the government (Tobi 1981 and Herskovits 1975). The three-level structure implies that the life of society is managed on various levels. Such a division into levels makes it possible to divide responsibilities, and it allows the government to manage the country more efficiently. Without separation of powers and an appropriate, effective system, there can be no rule of law (Agu 2019).

Succinctly put sections 4, 5, 6 of the 1999 constitution as amended 2011 states that the legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the federation which shall consist of a

Senate and A House of Representative. Subject to the provisions of this Constitution, the executive powers of the Federation shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the government of the federation or officers in the public service of the federation... the judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established by the Federation. The apex of the courts to which this section relates is the Supreme Court of Nigeria. And section 230 (2) states that the Supreme Court of Nigeria shall consist of

- a. The Chief Justice of Nigeria and
- b. Such number of Justices of the Supreme Court, not exceeding twenty-one, as may be prescribed by an Act of the National Assembly.

What this implies is that the CJN is not just the Chief of the Supreme Court Justices, he is also heading the Nigerian judicial arm of government just like the President and the Senate President are heading the executive and legislative arms of the government respectively. Therefore, what bounds them together is the constitutional proviso and the principles of checks and balance.

### **The principle of checks and balance**

This is a modifier of the principles of separation of powers. It can be argued to have originated from the Greek historian who used it to analyse the ancient Roman mixed constitution. He used it to explain the three main divisions of the constitution and the governance of the Roman Empire: the Monarch as represented by the Consul; the Aristocracy as represented by the Senate and democracy as represented by the people. Checks and balance is a very important principle that helps to shape and sustain democratic governments. It prevails in countries with constitutional and tripartite governments like Nigeria and the US.

Balancing each of the powers of the tripartite government is not only aimed at curtailing the possibility of abuse of power but to ensure that efforts in human actions towards tyranny, intimidation and oppression by government officials and agencies are checked and restrained maximally. It is also aimed at maximal use of constitutional powers by the tiers of government for the smooth administration and welfare of the people. In this context therefore, the executive abused its constitutional powers and excessively used it in contravention of the law and against the wishes of the political conscious class.

Now, assuming he was tried by a competent judicial body and found guilty of false declaration of assets as alleged, there is a constitutional procedure of suspending/removing the CJN, which is expressly and unambiguously provided for in the 1999 constitution section 292 (1). There, it is provided that:

A judicial Officer shall not be removed from his office or appointment before his age of retirement except in the following circumstances

- (a) In the case of  
 (i) Chief Justice of the Nigeria, President of the Court of Appeal, Chief Judge of the Federal High Court of the Federal Capital Territory (FCT) and President, Customary Court of Appeal of the FCT, Abuja by the President acting on address supported by two-third majority of the Senate.

Following this constitutional provision, the former CJN, Justice Onnoghen was forced to leave office base on mere suspicion rather than conviction because President, Muhammadu Buhari cut short the judicial processes and usurped the powers of the executive and the legislative arms of government. The President did not allow the judiciary to fully and exhaustively perform their judicial function. He did not allow the legislature to give him the 2/3 majority support required for him to implement the decision of the judiciary arm before suspending him. What this implies is that the actions of the President and whatever that must have informed it, perhaps conspiracy is contrary to the provisions of the Nigerian constitution.

### Postulations of the Conspiracy theory and its consequence in 2019 presidential election

Denotatively, conspiracy theory is a belief that an event or situation is the result of a secret plan made by people who are by any means, more powerful in the group. Behind every story of large-scale corruption, intimidation, subjugation, and marginalization there is an iota of conspiracy, which may or not be purposeful. Lawton (n.d) said “think of any major world event and there is almost certainly at least one conspiracy theory to explain it. However, there are certain political actions, which if you judge them by the swiftness of the processes, the level of manipulation and cover-up, it will become obviously clear that rudiments of conspiracy theory has taken place. The case of Justice Onnoghen is a clear evidence of electoral conspiracy and the beginning of the marred history of the Nigerian judicial/legal system. Smith (2020) explained that conspiracy theories flourish easily even as we have so much information at our finger tips because of the trending age of social media. Easy access and use of the social media makes it more difficult to hide government

conspiratorial actions. It was abundantly difficult for the government to manage the case of Onnoghen.

However, some of the reasons for conspiracy in government and politics include:

- ◆ **Corruption** – When certain corrupt practices have taken place, conspiracy must be employed in order to cover up
- ◆ **Blunt political ambition** – Some political leaders are over ambitious as to the attainment of a particular political position or the maintenance of an already attained political position
- ◆ **Selfish interest** – Political leaders tend to do better when they are spurred by common interest rather than selfish interest emanating from personal, ethnic or religious sentiments. Political leaders that are not selfish are usually free from undue control and influence
- ◆ **Administrative ignorance** – Administrative or leadership positions requires capacity and competences. One who is ignorant of his onus will be compelled to conspire and compromise else those working under him will undermine and disrepute him.
- ◆ **Bandwagon** – When it has become a culture, no one dares to run away from it else your administration will be seen and treated differently

### The truth about the saga

There is no truth in Nigerian political system that is why everything that politicians tell the citizens appears to be suspicious and defamatory. In democratic systems, there is politics behind every government action, which is normal and as old as democracy itself but why it is worrisome in Nigeria is because it has always been retrogressive and opposed to democracy and development. Administrative politics in Nigeria is not welfare-oriented and that is why, even in the National Assembly, there has always been argument against government’s administrative politics. Many Senators have called on the President to resign his office because he has shown clear evidence of incapacity. Even, the President do not know when his orders are not carried out by his Service Chiefs. People are dying in their numbers every day, yet the President is claiming ignorant by being adamant. Regarding this Onnoghen’s issue, President Buhari, while addressing the national leader of the APC, Asiwaju Ahmed Tinubu and other top Afenifere Leaders at the presidential villa, Abuja on Tuesday, June

25, 2019 stated that he was left with no option than to suspend Justice Onnoghen. How can we believe that the President does not know the constitutional process of disengaging a judicial officer of that level? Pretentiously, the President questioned thus:

“...What I do is when a person cannot justify what he has or fails to declare as the constitution specifies... some of them swear to almighty God that their property doesn't belong to them until we show them their bank accounts and their companies, right then we have some peace. Anybody who cannot account for what he has and for refusing to declare, we will have to do something about it. I will tell you Afenifere leaders that that was why I had to deal, though reluctantly, with the former Chief Justice of Nigeria because there were millions of dollars, euros not to talk of naira which were not declared. I wonder what sort of conscience some of us have. How can you sit and preside and lock people up for years and even sentence some to death and yet you are not doing what the constitution says you should do by occupying that vital institution?” (Egba 2019).

Did the President do what the constitution say about disengaging a high ranking judicial officer? The answer is no and the reason is because ...our leaders have not actually come to the realization that societal interest comes before individual interest. The societal interest could be better referred to as the national interest which is commonly accepted to be the manifestation of the core values, objectives and philosophy underlying the actions of the leaders (Ukwuije 2015).

Nevertheless, the undiluted truth remains that he was persuaded to quit office and the five (5) reasons for which he was so persuaded are all flimsy and unfounded. They do not conform to democratic tenets neither do they support the oneness of Nigeria.

1. He is a Christian, which automatically puts his loyalty to the presidency and the wishes of the Muslim cabal in doubt,

2. He is from the South, the known enemy-region (Biafra land). Who knows, he may be covertly supporting the cause of Biafra restoration

3. The cabal in Aso Rock are not sure he will compromise to their favour, should any case arising from the 2019 presidential elections gets to the Supreme Court. Even, the civil society group that petitioned him said that their action was necessitated by “the imminence of the 2019 General Elections and the overwhelming roles of the Judicial Arm both before and after.”

4. It was alleged that he was one of the people that attended a meeting in Dubai where it was agreed that PDP will take over the Presidency from APC in the 2019 general elections

5. The cabal did not want him to be the one to inaugurate the members of the Electoral Petition Tribunal and they did not want to him to continue as the CJN. The rationale behind this political frame-up is because they know that it is most likely there will be petitions against Buhari if eventually he wins the Presidential election. Therefore they thought it wise to start playing their defensive game early. This is a political calculation which can only be found in democracies. In democratic societies, especially in the developing world, the amount of energy and resources expended to win an election is nearly equal to or more than what is expended to protect the position.

Justice Walter Onnoghen is the first Southerner to attain the post of CJN in the past 32 years, the first in the chronicles of Nigerian judicial history to be so politically humiliated. He was the first CJN to be arraigned before the Code of Conduct Tribunal or any other judicial structure for criminal charges by the Federal Government. A careful analysis of the swift steps taken by the President to persuade the CJN to unwittingly leave office reveals that it was a piece of drama acted in the judicial theatre. I have no doubt that it was premeditated. Meanwhile, there are other appointments made by the President since his assumption of office in 2015 to support the postulations of the conspiracy theory and crystallise his standpoint of ensuring that Northern Muslims occupy more sensitive positions in the Nigerian judicial/legal system.

i. Abubaka Malami, SAN (November 11, 2015). Attorney General of the Federation and Minister for Justice. He was born in Birnin Kebbi, the capital of Kebbi State, Northern Nigeria. As at the time of his appointment, he was the youngest Minister in Buhari's cabinet.

ii. Isa Hayatu Ciroma, a holder of LLB, Sharia, Masters in Sharia and a Ph.D in Sharia. A Professor of Islamic Studies before he was on Wednesday, October 11, 2017 appointed as the Director-General of the Nigerian Law School. He is from Adamawa State, Northern Nigeria and former Deputy-Director Nigerian Law School, Yola Campus.

The struggle for Northern domination did not stop there, on Wednesday, June 20, 2018 the President made other appointment of high ranking judicial officers into the various levels of court as follows:

1) Justice P. A. Mahmoud	Benue	State
2) Justice F. Ojo	Kwara	State
3) Justice I. G. Abundaga	Nasarawa	State
4) Justice M. B. Idris	Niger	State
5) Justice A. M. Talba	Adamawa	State
6) Justices Kadi M. M. Alkali	Adamawa	State
7) Justice A. I. Adeniyangtso	Taraba	State
8) Justice A. S. Umar	Kebbi	state
9) Justice O. Z. Senchi	Kebbi	
10) Justice A. M. Lamido	Sokoto	state
11) Justice B. B. Aliyu	Zamfara	state.
12) Justice Ebowei Tobi	Delta	State
13) Justice G.O. Kolawole	Osun	State
14) Justices O. Itodo	Benue	state
15) Justice M. A. Abdul Gafar	Kwara	state
16) Justice D. D. Adeck	Nasarawa	state
17) Justice D. G. Mann	Plateau	state
18) Justice D. G. Goji	Adamawa	state
19) Justice Kadi U. B. Umar	Adamawa	state
20) Justices Y. A. Bashir	Taraba	state
21) Justice Z. B. Abubakar	Kebbi	state
22) Justice I. M. Sani	Kaduna	state
23) Justice F. L. Adamu	Kano state	
24) Justice I. B. Ahmed	Katsina	state
25) Justice M Y Uftsha'u	Zamfara	state
26) Justice P. O. Affen	Bayelsa	state
27) Justice O. A. Ipaye	Osun state	

According to Adeosun (2011) the country called Nigeria is multiethnic in nature divided majorly into North and South. The Northern section of the country has mainly the Hausa, Fulani, the Ebiras, Kanuri, Igalas and many other ethnic groups, while the Southern section is dominated by the Yoruba, Edo, Esan, Ibo, Urhobos, the Ibibios, Ijaws and so many other ethnic groups. Therefore, analyzing the appointments based on the six geopolitical zone configuration of the country, one can vividly see that there was no democracy and equity, and there was no Federal Character Principle in practice. Federal Character as a policy mechanism introduced for equitable distribution of appointments, natural and economic resources for the benefit of the citizens (Okorie and Greg 2013:5). Therefore, any appointment that is not in consonance with the Federal Character Principle is tantamount to impunity and violation of democratic laws and principles.

When government appointments are bereft of equity and fairness, then it becomes pertinent to ask where the place of federal character principle is, and the rationale behind such bias appointment. Federal character principle obviously promotes democracy but because it did not reflect in the appointments, Elombah News (2017) recounted that "democracy is about equity and equity must be done and seen to be done. The same educationally disadvantaged north now has the best

citizens to be so appointed. It seems what divides us is stronger than what unites us. Let's not pretend, Nigeria can't work!..The injustice I see here is not about one man, or the head of state, it has been institutionalized, just to suppress a certain group, therefore must be dismantled for the peaceful coexistence of all". Put differently, democracy is more about how a people govern themselves through their self-selected representatives who are answerable to them.

The six geopolitical zones were not fairly treated with regards to appointment of the Justices as depicted below. The entire North got 23 while the entire South got 4. Further analysis shows that the 4 was shared equally among the South- South and South West geopolitical zones. The entire South East was left with nothing in that appointment. So where is the Federal Character Principle, which in my view is a statutory provision that is more practically superior to a scholarly concept or a mere ideal? The underlying purpose of this principle as contained in the 1999 Constitution of Nigeria is to ensure equal participation of the various ethnic extractions in the governance of the country. The Principle is also aimed at preventing the domination by one or more ethnic groups in the affairs of the country and the exclusion of other ethnic groups. It is to ensure national unity and encourage an all-inclusive government at all levels and tiers.

In Chapter II of the 1999 Constitution of the Federal Republic of Nigeria as amended, Section 14(3) and (4) provide thus:

“(3) The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to promote national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or a few ethnic or other sectional groups in that government or any of its agencies.

However, in less than one full day in office as the Acting CJN, Tanko Muhammad performed his first official function, which was the swearing-in of the Chairmen and members of the Election Petition Tribunal on Saturday, 26 January 2019. The swearing-in was ceremonious, meaning that the seventeen Justices of the Supreme Court were all supposed to be in attendance but only Justice Sidi Bage was present. No excuse was given why the other Justices were absent in that ceremony.

However, the tribunal was composed of 250 members including the Chairmen and their main function was to hear petitions, which may arise from the conduct and results of the 2019 Presidential/National Assembly elections and the Governorship/State House of Assemblies elections. While speaking after performing the swearing in function, Justice Tanko Muhammad acknowledged that the nation’s judiciary was in trying time and admonished judicial officers to stand to protect and uphold the integrity of the judicial arm of government. He reminded them that it is from this oath that their duties and responsibilities as chairmen and members of the election petition tribunal in their various places of assignment springs up and has a binding effect.

Just after the inauguration of the Tribunal, some Lawyer from the Akwa Ibom State Chapter of the Nigerian Bar Association challenged the composition of the tribunal. They accused the President of making a posthumous appointment because of his cluelessness and carelessness in handling sensitive issues. This accusation was hinged on the claim that ten out of the 250 members of the Tribunal were either dead or retired judges. This group of Lawyers pointed out and claimed that Justice Edemekong, who is number 58 on the list had died since 2013. More so, they cited Justice Chukwu from Ebonyi State, number 53 on the list, a former Judge of the Federal High Court who died far before now. Again, they mentioned Justice Stephen Okon, Chief Judge of Akwa Ibom State and the Judge of the High Court in Akwa Ibom, Justice Okoyo Essang as all retired, yet they appeared in the list of the tribunal members. The group passionately cried out that if dead and retired men are to sit on our Election Petition Tribunal, then the APC-led Federal Government is out to drown this country.

Meanwhile, Mrs. Sa’Adatu Kachalla, a Court of Appeal Media officer strongly objected the claim that ten out of the 250 names the Court of Appeal forwarded to the apex court for inauguration as members of the Election Petition Tribunal were either dead or retired. She described the claim as false, misleading and a total misrepresentation of the good intentions of the Hon. President aimed at building not only a vibrant judiciary but also an endearing democratic society.

Well, the fact is that, it was an unfortunate situation because there was no further action from any quarter to debunk the assertion that some dead or retired judges were in the membership of the Election Petition Tribunal, which seems to appeal to the consciences of many Nigerians. This was because the anticipated political and electoral tussle just played out like a script directed by a competent Thespian. The appointment of dead or retired judges into the membership of the Election Petition Tribunal was deliberate and the idea behind it was that, when you look at the list, it will appear as if there is equal representation in the nomination but only when they sit you will discover the intent of the lopsidedness of the membership.

## CONCLUSION

In the end, the general elections that cost the country about ₦69 billion (USD\$625 million), the most expensive election ever held in Nigeria and suggestive of instability in political process and inefficiency in electoral spending, were held on February 23<sup>rd</sup> 2019 to elect the President, his Vice, the Senate and House of Representatives and on March 9, 2019 to elect the Governors, their Deputies and State Houses of Assembly. The intended outcome was realized as Buhari was declared winner of the presidential election with over a three million vote-margin. His Certificate of Return was issued to him by the Independent National Electoral Commission (INEC) at the International Conference Centre (ICC), Abuja. Consequently, while the legal battle was ongoing, Buhari was sworn in for his second term in office as the President of the Federal Republic of Nigeria on the 29<sup>th</sup> day of May, 2019, the former date of democracy day in Nigeria.

His closest rival, Atiku Abubaka was not able to contend successfully with him in an eight-month legal battle because the people that filled the bench and jury are mostly Buhari’s indoctrinated appointees. The newly appointed Chief Justice of Nigeria (CJN), Justice Tanko Muhammad, in a session with six other Supreme Court Justices said on Wednesday, October 30, 2019 following the Supreme Court’s judgement that “We have examined all the briefs and the exhibits for over two weeks and we agree that there is no merit in this appeal... therefore, the appeal is hereby dismissed” (Sibeko, 2019).



## REFERENCES

- Adeosun, A. B. (2011) Federal Character Principle and National Integration: A Critical Appraisal. *International Journal of Politics and Good Governance*. Vol.2, No 2.4 Quarter IV
- Aderonke, M. (2013) Federal Character Principle as a Recipe for National Integration in Nigeria: An Overview. *International Journal of Advanced Research in Management and Social Science*. Vol. 2 (6) Pp. 65-84
- Agu, Z. (2019). *The three arms of government in Nigeria and their functions*. Legit Nigerian News. Retrieved on 13/12/20 from: <https://www.legit.ng/1148362-the-arms-government-nigeria-functions.html>
- Ajikobi, D. (2018, September 5). Checked: two claims about the astronomical cost of Nigeria's election. Africa Check: Sorting fact from fiction. Retrieved on 17/12/20 from: <https://africacheck.org/reports/checked-two-claims-about-the-astronomical-cost-of-nigerias-election/>
- Ashameri, I. (2019, January 27). Breaking: 10 dead, retired judges among newly appointed Election Petition Tribunals' members. Independent. Retrieved on 17/12/20 from: <https://www.independent.ng/10-dead-retired-judges-among-newly-appointed-election-petition-tribunals-members/>
- Bashir, A. (2019, February 27). Breaking: INEC gives Buhari, Osinbajo certificate of return. Vanguard. Retrieved on 17/12/20 from: <https://www.vanguardngr.com/2019/02/breaking-inec-gives-buhari-osinbajo-certificates-of-return/>
- Downe-Wamboldt, B. (1992). Content analysis: Method, applications and issues. *Health Care for Women International*. Vol. 13. Pp. 313 – 321 Taylor & Francis
- Egba, J. (2019). President Buhari finally reveals why he fired Onnoghen as Chief Justice of Nigeria. *Pulse. Ng*. retrieved on 11/12/20 from: <https://www.pulse.ng/news/local/buhari-finally-reveals-why-he-fired-onnoghen/t8357vk>
- Egwemi, V. (2010). Managing Nigeria's image crises: Akunyili's rebranding programme to the rescue. *Current Research Journal of Economic Theory*. Vol. 2 (3). Pp. 131 - 135
- Elombah News (2017 November 30). *Injustice: 27 newly appointed Court of Appeal Justices*. Retrieved on 15/12/20. From: <https://elombah.com/27-newly-appointed-court-of-appeal-justices/>
- Federal Republic of Nigeria (1999). *The constitution of the Federal Republic of Nigeria as amended 2011*. Abuja; Federal Government Press
- Hayatudeen, M. K., Mohammed, G., Jamri, B & Bako, U. (2011). Nigerian political history from 1954 – 1999: organisation, conduct and customs of election. *African Journal of International Politics and Diplomacy*. Vol. 2 (1&2). Pp. 49 - 114
- Herskovits, J. (1979). Democracy in Nigeria. *Foreign Affairs*. Vol. 58 (2). Pp. 314 – 335. Council on Foreign Affairs. Retrieved on 13/12/20 from: <https://www.jstor.org/stable/20040417?seq=1>
- Lawton, G. (n.d). Conspiracy theory: believe in conspiracy theory is the product of normal human psychology, but can be extremely dangerous. *New Scientist*. Retrieved on 14/12/20 from: <https://www.newscientist.com/term/conspiracy-theories/#ixzz6gd3t5zb7>
- News Agency of Nigeria (2018 June 20). Buhari approves appointments of 29 Justices for the Appeal Courts, others. *The Guardian*. Retrieved on 16/12/20 from: <https://guardian.ng/news/buhari-approves-appointments-of-29-justices-for-appeal-court-others/>
- Nigeria Governance Project KYG. (2013). *Justice Walter Samuel Nkwana Onnoghen*. Available online as at 9 September 2018.
- Nnochiri, I. (2019). Assets declaration: FG slams 6-count criminal charges against CJN, Onnoghen. *Vanguard*. Retrieved on 13/12/20 from: <https://www.vanguardngr.com/2019/01/breaking-fg-asks-cjn-onnoghen-to-vacate-office-over-asset-declaration/>
- Oak TV Newstrack (2019). *How Onnoghen's trouble started*. Oak TV Newstrack. Retrieved on 13/12/20 from: <https://oak.tv/newstrack/onnoghens-trouble-started/>
- Okakwu, E. (2019 January 12). Code of Conduct Tribunal raises panel to try CJN Onnoghen. *Premium Times*. Retrieved on 13/12/20 from <https://www.premiumtimesng.com/news/headlines/305392-code-of-conduct-tribunal-raises-panel-to-try-cjn-onnoghen.html>
- Okorie, C. O. & Greg, E. (2013) Federal Character Principles, Nation Building and National Integration in Nigeria: Issues and Options. *Mediterranean Journal of Social Sciences*. Vol. 4 (16). Pp. 33-40
- Oyeleke, S. (2019 April 18). Breaking: Onnoghen sacked, barred from holding public office for ten years. *Independent*. Retrieved 12/12/20 from: <https://www.independent.ng/breaking-onnoghen-sacked-barred-for-10-years/>
- Renner, S., Alake, T. & Bala-Gbogbo (2019). Buhari triumphs in Nigeria poll as opposition rejects result. Bloomberg. Retrieved on 17/12/20 from: <https://www.bloomberg.com/news/articles/2019-02-27/under-fire-buhari-confounds-skeptics-to-win-nigerian-election>
- Schreier, M. (2012). Qualitative content analysis in practice. Thousand Oaks, CA: Sage Publications
- Sibeko, S. (2019). Nigeria's Supreme Court upholds President Buhari's election win. Aljazeera. Retrieved on 17/12/20 from: <https://www.aljazeera.com/news/2019/10/30/nigerias-supreme-court-upholds-president-buharis-election-win>

- Smith, M. (2020). 5 reasons why conspiracy theory thrive in politics. GBH. Retrieved on 14/12/20 from: <https://www.wgbh.org/programs/2020/07/31/five-reasons-why-conspiracy-theories-thrive-in-politics>
- Tobi, N. (1981). Judicial independence in Nigeria. *International law Practitioner*. Vol. 6 (ii) Pg. 62. Great Britain, Heinonline. Retrieved on 13/12/20 from: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ilp6&div=26&id=&page=>
- Ukwuije, C. B. (2015). Nigerian leadership and the blame - game pattern of politics: The myalism of sustainable development. *School of Business Multidisciplinary International Journal*. Vol. 1 (1) Pp. 109 - 123.
- Usoro, P. (2019 January 25). Coup against the Nigerian judiciary and the suspension of the Nigerian constitution. Nigerian Bar Association. Retrieved on 05/01/21 from: <https://nigerianbar.org.ng/coup-against-nigerian-judiciary-and-suspension-nigerian-constitution>