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Administrative Law and Justice System in the Nigeria's Fouth Republic

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ABSTRACT
The inherent weakness of the administrative institutions and their laws in Nigeria have necessitated an enquiry into the problems that precipitated this condition, hencethe examination of the impact of the justice system on administrative law in Nigeria. The study depended wholly on secondary data in which issues such as administrative institutions, background to administrative law as a concept, the definition, the synopsis, the conditions that necessitated the establishment of administrative law, the Nigerian context of administrative law and justice systemwere briefly examined. Findings show that the problems of administrative law in Nigeria situate around the issues of funding, undue influence, high level of corruption, poverty and illiteracy, lack of expertise in administrative law and institutional weakness among others. The work came up with some recommendations which their implementation is expected to begin a process of reforming administrative law in Nigeria for greater efficiency. The work however concludes that development in this regard will not be an easy task especially considering the huddles that face Nigeria as a developing state, and the slow growth rateof her institutions; however, her administration could do better if only all stake holders show meaningful commitment towards doing the right things.

KEYWORDS: ADMINISTRATIVE LAW, ADMINISTRATIVE INSTITUTIONS, JUSTICE SYSTEM, FOURTH REPUBLIC

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I. INTRODUCTION

Until the last quarter of the 20th century, public administration studies were developed in most countries of Europe by scholars trained in law and legal practitioners of public administration. From the legal perspective, public administration studies have been primarily a by-product of administrative law. Jacquer (2007) noted that even Max Weber who was recognized as the founder of sociology of administration was first educated in law before his interest was captured by economics and sociology. In other words, administrative practices and studies were conducted under the ambit of the rule of law. The idea behind the rule of law this time was expressed in two European continental models: the French 'principe de legalite' and the German 'Rechtssaat' respectively. These models were developed in Prussia in the 19th century and in France at the turn of the 19th century. These models altogether explain the relevance of law for public administration.

The idea of the 'Rechtssaat' which literally means 'the legal state' which when translated in English means 'the rule of law', was developed mainly during the 19c by German writers as opposed to the 'poliziestaat' meaning 'police state' which corresponded to autocratic absolute monarchy. The central feature of the Rechtssaat idea is that sovereign has to be bound by the rules they have made and which have to be stable, known by their subjects and applied in a fair manner to all by politically neutral judges and administrators. Until the 20th century, the idea of the legal state or Rechtssaat was central on legal formalism as a safeguard for a fair social order which was clearly linked to the democratic apparatus as the main guarantee for the functioning of the system.

The Nazi period, with the assistance of renowned lawyers and academics, like Schmitt, led to a remarkable transformation of the Rechtssaat idea after the world war 2nd. Beyond the legal formalism which however was important for the procedural guarantee to citizens, the Rachtssaat idea began to incorporate very strong constitutional protection of human rights and nondiscrimination and protection of human dignity as well. This relied on sophisticated system of judicial protection centered upon a constitutional court model. This revived form of a 'legal state' began to create appreciable impact owing to the level of development of public administration already made in Europe.

The French principe de legalite –: 'principle of legality' was an outcome of the Rousseau's theory of democracy which was adopted and developed by the political personnel of the French revolution of the 1789. The basic feature of this idea is that la loi expression de la voluntegenerale, which in Rousseau's words means '[statute] law is an expression of the general will'. According to this idea which is linked to the concept of social contract, citizens are only to obey rules that have been accepted through decisions of their representatives. Thus, while the idea of Rechtssaat (legal state) developed independently before that of democracy in German institutions, the principe de legaliteie 'principles of legality' has always been linked to the idea of representative democracy.

In France, the legal consequence of the principle of legality was developed mainly by the case law of the conseil d'etat : interpreted to mean council of state. The council of state was set up in 1799 to be the government legal council; it later became the highest appellate body in litigation between citizens and government referring to public administration, with government abiding by its advise. In 1872, it became the independent court making decision in the name of the people. As early as the middle of the 19 century, the case law of the council of state became the first developed body of modern administrative law. This body became a source of inspiration for the development of administrative law in most western European countries, and this model of the council of state has been used in the smaller number of countries for the establishment of supreme administrative courts. Hence, Allan, (2021) summarized that the rule of law simply implies that everyone is subject to the law and should obey it. He particularly emphasized that government should obey the law and govern according to the law. Therefore, the rule of law requires a constitutional government and acts as a protection against dictatorship or arbitrary rule.Under the rule of law political leaders and their agents (police and other anticraft agencies) are required to exercise power within the ambit of the law. Allan (2021) described the German concept of 'Rechtssaat' as 'state under law', and rather than just being exclusively a political entity, but as an organized legal entity seen as limited by laws and by fundamental principles of legality

It is however, important to note that though administrative law has been adopted in many countries, its application and effectiveness varies from country to country depending on the national environmental factors. The justice system (which is usually the function of the strengths and /or weakness of the institutional structures, the level of socio-economic and political development, human capital, political culture, political stability, values system, norms etc), to a large extent determine the efficiency of the application of administrative law. It is against this backdrop that the paper seeks to examine if the principles and practice of the justice system is responsible for the poor performance of administrative law in Nigeria within its fourth republic.

II. CONCEPTUAL CLARIFICATION

Administrative Law

Administrative law relates to the control of governmental powers. The primary purpose of administrative law is to keep the powers of government within their legal bounds, so as to protect the citizens against their abuse. It is also the concern of administrative law to see that public authorities can be compelled to perform their duties with fairness. Administrative law embodies the general principles which govern the exercise of powers and duties by public authorities.

Wade (1988) define administrative law as "a branch of public law which is concerned with the composition, powers, duties, rights and liabilities of the various organs of government which are engaged in administration or more precisely the law relating to public administration".

Ivor Jennings sees administrative law as "the law relating to administration. It determines the organization, power and duties of administrative authorities". (Malemi, 2008)

Heywood (2002) views administrative law as the "law that regulates the exercise of executive power and policy implementation".

From a wider perspective however, Schwartz opined that:

Broadly speaking administrative law may be defined as the branch of the law that controls the administrative operations of government. It sets forth the powers that may be exercised by administrative agencies, lays down the principles governing the exercise of those powers, and provide legal remedies to those aggrieved by administrative action. (Malemi, 2008)

In another sense, administrative law also means the body of laws made by administrative authorities and agencies in the form of rules, regulations, orders and decisions which enables them carry out their duties and regulate themselves. It is concerned with administrative processes and conducts of government and public authorities. Malemi (1988) has thus, summarized administrative law as the law which regulars the functions and powers of government and administrative authorities and provides remedies for administrative wrongs.

SCOPE OF ADMINISTRATIVE LAW:

Wade (1988) identified the following as the synopsis of administrative law:administrative authorities, administrative functions, judicial control, discretionary power, natural Justice, remedies and liabilities, legislative and adjudicative procedures.

JUSTIFICATION FOR THE ESTABLISHMENT OF ADMINISTRATIVE LAW

Akrani (2010) has identified several reasons responsible for the establishment and rapid growth of administrative law in the 20th century. This growth has been propelled by its relevance in a political system. According to him the following factors have contributed the relevance of administrative law

1. **Changing relations between authorities and citizens**:Akrani(2010) identified visible change in the present relationship between the citizens and public authorities. He noted that in the earlier times citizens were not directly involved in the administration of public affairs. Thus, there was a gap between the administrative organs of government and the citizens. Today however, the situation has changed; there is now a close association between the citizens and administration of state affairs. In view of this, the basic structures of the state need to be re-arranged to accommodate this involvement in such a way as to protect the rights and privileges of the citizens in the course of administering public affairs. This has led to the development of administrative law targeted at exercising varied type of control on administrative institutions in order to safeguard the rights of individuals.
2. **Emergence of welfare state concept:** The next justification forthe establishment of administrative law is the emergence of welfare state principle which developed in the 19th and 20th centuries. According to the doctrine of the welfare state, the basic objective of state administration is to achieve maximum welfare for the masses. Therefore, every policy of state should aim at maximizing thewellbeingand happiness of the citizens. This obviously expanded the functions of the state. The increasing functions of the state however, created several problems and complications. To address these problems, it was well considered necessary to enact a separate branch of law termed'administrative law' to provide action guidelines for public authorities in pursuit of the goals of the welfare state.
3. **Insufficientexisting legislations:**Theexisting legislations experienced several drawbacks,and became inadequate to accommodate the new administrative machinery that came with the welfare state. In order to meet the expanding needs necessitated by the changing socio-economic and political problems, a new branch of law – administrative law was established.
4. **Inadequacy of courts:** The present courts are overburdened with work, and as such it may become almost impossible for them to cope with the myriad of administrative problems alongside its own areas of jurisdiction. It was therefore proposed that there should be a separate branch of the law to specifically tackle the problems of administration, and hence the establishment of administrative law.
5. **Technical experts are within the administrative organs:** To a large extent, technical experts in administrative matters cluster within the administrative organs. In an attempt to shift the legal job of administration to the present judiciary or the legislature, these institutions will be handicapped due to lack of technical knowledge. Thus, in order to utilize these talents of the experts within the administrative machinery, it became thoughtful to create new and coordinating branch which happened to be administrative law; besides, administrative tribunals are regarded as impartial arbiter in administrative issues which needs separate set of rules to operate.
6. **Union of Administrative and Judicial Functions:** In line with the principle of separation of powers, the three arms of governments were created –the legislature, judiciary and executive, functioning separately; notwithstanding, it was considered necessary to create a different form of court to co-ordinate administrative law (which is a judicial function) but under administrative organ.
7. **Weakness of the judicial system:**Akrani(2010) noted that deciding and settlement of all disputes were increasingly getting slow, costly, complex and falling in the hands of mediocre, overburden and formalistic, such that it was no longer possible to expect speedy settlement even of very crucial matters, for instance industrial dispute, luck-outs, strikes and so on. It therefore became necessary to establish industrial tribunals and labour courts which possess the technical expertise needed to handle these complex problems with speed and precision.

THE NIGERIAN CONTEXT OF ADMINISTRATIVE LAW

By virtue of her colonial relationship with United Kingdom, Nigeria received and adopted into its legal system the British form of administrative law. At independence in 1960, Nigeria inherited the English jurisprudence of administrative law into its domestic legal system. In its desire to fast-track socio-economic and political development of the various societal sectors of the new state, the national leadership of the newly independent Nigeria adopted State-centered economy by which the country assumed responsibilities hitherto

performed by private persons and corporations. The result of this was the necessity of creating several governmental agencies such as the railway corporations, marketing boards, etc.

Above the capacity of civilian government, successive military regimes used the opportunity to create series of agencies and tribunals fueled by the fact that the *modus operandi* of the military regime is to act with dispatch. At present, there are hundreds of government agencies charged with different functions including delivery of goods and services, and the enforcement of certain rules.The major institution driving the machinery of administrative law is the executive branch of government. Thus, section 5 of the constitution of the federal republic of Nigeria 1999 as amended, provides that the "executive power is vested in the president or governor or and may be exercised directly or indirectly through the vice-president, governor or deputy governor, ministers or commissioners and other officers of the public service". Such powers extend to the execution and maintenance of the constitution of the Federal Republic of Nigeria and all laws made by the National Assembly, and all matters with respect to which the National Assembly is competent to make laws. It is the process of executing this power that makes up the administrative arm of government and administrative law.Administrative law in Nigeria has however been confronted with myriad of problems since the Nigeria's fourth republic (1999 –date).It is therefore the concern of this paper to identify some of these problem issues and suggest practical strategies that could gradually lead to the process of addressing them within the limit of available resources.

THE PROBLEMS OF ADMINISTRATIVE LAW IN NIGERIA

The most critical factorsidentified as constituting problems to the efficient performance of administrative law in Nigeria are discussed below. These problems manifest through the various institutions established to implement administrative law. They include among others:

1. Inadequate Funding. Lack of funds has been identified as a major obstacle to some of the institutions of administrative law in Nigeria, using the code of conduct tribunal as an example. The Code of Conduct Tribunal was established in 1989 under decree no I, to ensure probity and accountability in the conduct of government business among public officers. It was established basically to tackle issues relating to public officers who commit misconduct in the course of their duties. Misconduct could be in form of collection of bribes, abuse of office like using the public office one occupies to influence certain decisions and actions, etc.This problem was confirmed by the Chairman of the Code of Conduct Tribunal – Justice Danladi Umar, in an interview with 'Leadership Newspaper', on the challenges facing the Code of Conduct Tribunal in Nigeria. Danladi (2012) noted that:

well, the major challenge we usually face both here and, in the ministry, is lack of proper funding. Everywhere we go in the country with the entourage, we spend not less than N5m. And our budget unfortunately does not provide such money for us… sometimes, it is even difficult for us toserve summons to defaulters in the area they live. This is because we do not have vehicles neither do we have enough police escort that should accompany such documents.

2. Undue political influence: Often timesadministrative institutions and the courtsare influenced by the powers that be. This is demonstrated in the inability of the judiciary to handle cases of corrupt politicians in a judicious and expeditious manner. A number of state governors were apprehended by the Economic and Financial Crime Commission (EFCC) under Mallam Nuhu Ribadu (who worked assiduously to fight public sector corruption in Nigeria) The former Abia state governor Orji Kalu, was indicted on 107 count charge by the EFCC for an alleged embezzlement of N5.6b during his tenure (1999-2007). Kalu was first charged to court on July 27, 2007. This case was on for over six years without any hope of resolution. Joshua ChibiDariye was the former governor of Plateau state;he assumed office on May 29 2009 on the platform of The Peoples' Democratic Party (PDP), was re-elected for another four year term in May 2003 and was impeached on November 13 2006. During his tenure as a governor he was arrested during one of his visits to London on January 20, 2004 for being in possessing of large amount of money he could not explain the source. He jumped bail in London and returned to Nigeria. He was subsequently arrested in Nigeria for stealing $9m from Plateau state treasury. The embezzlement case against him was never clearly adjudicated in the court. Instead in April 2011 the same person was elected a senator under Labour Party. On October 11, 2011, the EFCC charged formal governor of Oyo State, (January 2006-May 2011) Otunba Christopher Adebayo with 11-count charge of conspiracy, contract scam and other unholy acts including acquisition of properties in both Nigeria and United Kingdom by defrauding N20b from Oyo state treasury. The case remained pending in the court for no explainable reasons. On December 12 2007, the former governor of Delta state James Ibori was arrested by the EFCC for theft of public fund, abuse of officeand money laundering. He was arraigned on 107 count charges totaling N40b. On December 17, 2009 the Federal High Court sitting in Asaba discharge and acquitted him of all the 170 count charges. EFCC, dissatisfied with the court ruling, filed a notice of appeal and his case was re-opened on April 2010 while attempt to arrest him was unsuccessful as he fled to Abuja and later to Dubai. At Dubai he was apprehended and extradited to Britain to face outstanding corrupt charges. He was tried,

convicted and sentenced to jail in London. All these took place, while his Nigerian fraud case is still pending. The former governor of Bayelsa State DiepreyeAlameiyeseigha who was detained in London for money laundering in 2005, jumped bail in London, came back to Nigeria in disguise and pleaded guilty before a Nigeria court to six charges. He was sentenced to 2 years imprison for each of the charges. He spent six months in jail since his sentence ran concurrently; he was later granted presidential pardon by President Goodluck Jonathan who was his deputy during his tenure as a governor.There are many other cases where sentences handed out to some public fund fraudstars were unnecessary lenient. Cases of Cecelia Ibru- former Managing Director and Chief Executive Officer ofOceanic Bank whose 18-month jail was concurrently reduced to six months, the case involving Mr. John Yakubu Yusuf who embezzled N3.2b pension fund was given an option of fine of a paltry amount of N750,000 in lieu of 2 years imprisonment.

On Friday January 25, 2019, President Mohammade Buhari arbitrarily suspended the then sitting Chief Justice of the federation (CJN) to account of the CJN's failure to declare his financial assets before assuming office in 2017. The suspension took place less than 24 hours to the CJN's plan to swear in members of the various 2019 election petition tribunals slated for Saturday Jan. 26th 2019. Mr. President claimed that his action was a follow-up to an order of the Code of Conduct Tribunal dated January 2019. Tukur (2019) however decried the unclarity as to whether the president has the power to suspend a sitting chief justice of the federation. The action of Mr. President attracted several criticisms from both local and international communities. The local community describes the action as an act of dictatorship and unconstitutional, and politically motivated especially with the National general elections commencing in few weeks. On removal of judicial officers, section 292 (1) of the constitution of the Federal Republic of Nigeria (1999) as amended stated as follows: 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:

(1) Chief Justice of Nigeria, President of the Court of Appeal, Chief Judge of the Federal High Court, Chief Judge of the High Court of the Federal Capital Territory, Abuja, Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja and President Customary Court of Appeal of the Federal Capital Territory, Abuja, by the President acting on an address supported by two-third majority of the Senate…

praying that he be so removed for his inability to discharge the functions of his office or appointment (whether arising rom infirmity of mind or of body) or for misconduct or contravention of the Code on Conduct

From the international community, the European Union Election Observation Mission, (EUEOM) pointed out that the decision to suspend the Chief Justice has made Nigerians including lawyers to question the application of the due process of law; the United States government also expressed concern over the removal of a sitting Chief Justices of the federation without the approval and support of the Legislative council or the National Judicial Council. The British High Commission equally showed concern over the suspension, noting that the action poses a risk affecting both domestic and international perception on the credibility of the forthcoming Nigerian elections. Altogether, the international community suspected that Onnoghen's removal 'could cast a pall over the electoral process' (BBC News, 2019)

3. **High level corruption:** Corruption in Nigeria is as old as Nigeria as a political entity. It all began when the regional elites began to see the state as the most viable source of primitive accumulation, having been denied of the skill and knowledge required to produce wealth. Over the years of increasing rate of kleptocracy, corruption has become endemic and has eaten deep into the fabrics of the Nigeria society, such that the Transparency International Report (2013) has rated Nigeria as the 33rd most corruption country in the world. (Uduma: 2013). Corruption has endured in Nigeria despite all the purported efforts made by succeeding regimes to fight the ugly menace through the establishment of institutions such as the Economic Financial Crimes Commission (EFCC), the Independent Corrupt Practices Commission (ICPC), The Code of Conduct Tribunal etc. However, the most devastating corruption is the one perpetrated by those at the corridors of power, or those legally authorized to fight corruption, because no body can report or indict them, and therefore the law cannot catch up with them. Corruption undoubtedly hampers the progress of administrative law in Nigeria. The most painful aspect being that the masses who have rights to enjoy the dividends of democracy are completely alienated and suffer the socio-economic impact of corrupt practices perpetrated by those at the helm of affairs.

For instance, the petroleum subsidy removal effected by the federal government as a strategy to improve the socio-economic condition of the poor overtime wastrailed by several subsidy fund scandals involving fraud that run into billions of naira. Topmost is the one involving Hon. Farouk Lawan and cohorts who was alleged to have collected bribe of $620,000 in three installments (as part pay for an agreed price amount $3m) from Mr. Femi Otedola, the Chairman of Zenon Petroleum Limited; the essence of the bribe being to remove Zenon's name from the list of companies that collected foreign exchange from Central Bank of

Nigeria (CBN) without importing petroleum products. In their usual game of deceit, Lawal Farouk claimed to have given the money to the House Committee Chairman on Narcotics, Drugs and Financial Crimes – Hon. Adams Jagaba who consistently denied collecting any money from Lawan. To this, THISDAY NEWSPAPER gathered that report of the investigation conducted by the House Committee on ethics and Privileges might after-all exonerate Lawan. Under this scenario, If Otedola is exonerated; all those involved will receive the same treatment leading to automatic closure of the case. The prebendal nature of Nigerian politics would not allow the truth to be told because at the end of the day, all interests are protected at the expense of justice administration. (Onwuka, N. 2012)

4. **Poverty and illiteracy:**A greater percentage of Nigerians live below poverty line. The highly impoverished Nigerian citizens are pre-occupied daily by how to eke out a living. To say the obvious, most of the citizens lack the consciousness of the activities of public officers and how these activities impact on their lives, lack the awareness of the existence of administrative law and therefore cannot insist on accountability. While this is the situation, public officers are busy misusing and diverting funds mapped out for national development that should alleviate the plight of the poor. Because of the degree of poverty and lack of awareness among the citizens, fraudulent cases perpetrated by public officers are neither noticed nor reported to administrative courts.

5. **Lack of expertise in administrative jurisdiction:** Wade (1982) has noted that one of the problems of the Anglo-American system of Administrative Law was that the judges were not experts in administrative law. This problem according to him weakened administrative law as its principles have been submerged in the mass of miscellaneous law administered by the ordinary court. If this could be the situation in the Anglo-American system with her level of development, one begins to imagine how bad the situation would be in the Less Developed Administrations like that of Nigeria where the expert knowledge and practice are conspicuously lacking.For instance, appointment of the Chief Justice of the federation is done by the president; while the Chief Justice then appoints the Chief Judge of states; this is improper anddoes not give room for the appointment of experts and credible candidates that can promote the core values of administrative law.

6.Institutional weakness: The administrative institutions and courts bedeviled by the factors explained above will undoubtedly be challenged in strength. Besides, going by the level of technological development, the Nigerianstate suffers inadequate security network arising from lack of advanced and functional crime detecting mechanisms and surveillance technique applied in the advanced countries to ease crime detection. This probably explains why some official crimes and corrupt practices are either haphazardly dictated, inexhaustibly investigated or sometimes even ignored, making it difficult for law to take its course, but in advanced countries, there is adequate surveillance mechanism put in place to dictate any form of crime irrespective of how long it takes to do that. For instance, it took the United States of America about 9 years to trap Osama Bin Laden - the chief actor in the September 11 2002 attack on the United States World Trade Centre in New York.

III. SUMMARY AND CONCLUSION:

This paper gave an overview of the salient features of administrative law and its Nigerian context. Nigeria adopted the British system of administrative law by virtue of her colonial relationship with Britain. Nigeria is a developing country and all other structures that enhance good governance are equally at their developmental stage, just as the administrative law is. Therefore, the problems highlighted above should not project the Nigerian administrative legal system as hopeless. For instance, before the fourthrepublic, democracy was like an illusion in Nigeria, but since 1999, democracy has endured; the extent to which it is ideal however is another issue. If the institutions are enhanced and all stake holders do the right things, gradually, over time the administrative law, the judicial system and other institutions of governance will begin to experience transformation that will lead to the law taking its course when necessary.

IV. RECOMMENDATIONS:

1.Upward review of judicial budget: On the problems of lack of funds and institutional weakness, undoubtedly, independence and impartiality of the judiciary is one of the central pillars of democracy and good governance – which in turn depends on the effectiveness of institutional and organizational mechanisms and procedures for appointment, promotion and tenure of judges; processes of budgetary allocation and controls; and procedure for judicial administration. Effective and efficient management of the judicial system therefore requires increasing the judiciary's budget, improving its physical infrastructure and reforming judicial selection and career laws.

2. Top to bottom fight against corruption: The war against corruption should start from the people at the corridors of power. I feel this way because even though corruption has become a legacy, endemic and systemic, cutting across all categories of individuals in all works of life, if the state managers jettison corruption, those at the lower level whose faith is determined by those at the corridors of power would have no moral justification to practice or indulge in corrupt practices. Therefore, top to bottom fight against corruption will begin a process of sanitization of the whole system.

3. Designation of a court division for administrative cases: In view of the expert knowledge needed for proper adjudication of administrative law, it is suggested that all administrative cases should be handled by one division of the court; so that its Judges will acquire expertise and the dangers of diffusion will be minimized. This requires training of Judges and other relevant court personnel on the act of modern practice of administrative law, strengthening BAR associations, curriculum reform in the Universities, increasing the availability of legal materials for Judges, and strengthening case management and other administrative tasks.

4. Re-enforcement of the independent of judiciary: The independent of the judiciary should be re-emphasized to remove unnecessary influence and arm-twisting. This will guarantee what Karibi White (2014) referred to as 'substantial justice'. In a lecture delivered by Karibi, titled*"In the Eyes of the Law"* as part of the week-long celebration of the 35th anniversary of the National Institute of Legal Studies held in Abuja, (March 17, 2014), he enjoined courts to avoid 'technical justice' and do 'substantial justice'. According to him, the court is well known for interpretation and not for making laws, and should focus on that basic function. He noted that "It is right that courts do not make but expound the law and in doing this, it is in the interest of justice and fair play to shy away from technicalities".

5. The head of the judiciary should emerge through a democratic process: The Chief Justice of the federation is the head of the judicial arm of government which is very critical in human rights protection. The head of such a sensitive institution should not be merely appointed by the head of another arm of government – the executive arm). It is therefore suggested that the Chief Justice of Nigeriaemerges through a kind of election to enable the masses participate either directly or through their representatives (electoral college) in choosing the person whose action is central in protecting their rights and privileges. This will help in the choice of a candidate with proven integrity, expert knowledge and whose willingness and ability to deliver are not in question. It will also reduce undue influence and arm twisting, as well as strengthen the independence of the judiciary as accountability will shift to the public and not to the head of the executive arm that hitherto appointed the head of the judiciary.

6. The principle of nemo judex in causa Sua(rule against bias) should be applied: This Latin phrase means that no one should be a judge in his own cause; no one should be both a prosecutor and a judge. This further implies that a judge should be uninterested and unbiased in the proceedings or hearing of a subject matter before him. This is a natural justice meant to prohibit interest or bias in a case on the part of the Judge. This principle holds that whenever a Judge has an interest or stake in a matter or where he is likely to be biased or accused of being biased because of any interest or relationship, he should be made to decline from hearing the matter, and the Chief Judge or the Administrative Judge should assign the matter to another Judge for hearing; otherwise, the biased Judge will earnestly desire a lopsided judgement. This principle should be broadly applied in administrative adjudication to enable fair hearing and fair judgment.

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