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CONTENTS

RECONSIDERING LEGAL AND JUDICIAL REFORM IN THE DEVELOPMENT OF NIGERIA

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Abstract

No matter the level of civilisation obtainable in any society, whether rightly or wrongly dubbed primitive or modern, it has been agreed that law, in its varying degrees, plays an inevitable role. The basic role of law is to regulate human conduct. No wonder, the master mind of Aristole, thousands of years back, quipped that, at his best, man is the noblest of all animals; separated from law and justice he is the worst. Thus, that law is the pivot upon which the human society revolves, is not and can never be in doubt. The vagaries of nature compels humans to tackle nature - how toward off the elements – rain, sunshine; what to eat, locomotion, ill heath, etc. All these and many more, bring in the concept of progress – development. Human development is a continuous process. The objective of this paper is to articulate the view that legal and judicial reform plays a vital role in Nigeria's development; the type of legal and judicial reform that is needed for desired development. In doing these, the paper will address some sub-issues – legal and judicial reform in historical perspective, constraints against legal and judicial reform, among others. The sources of information relied upon here are relevant text, journals and internet materials.

Keywords: Legal, Judicial, Reform, Development, Nigeria.

1. Introduction

Nigeria, for the first time since attainment of nationhood, has had uninterrupted democratic rule for sixteen years, and still counting. Under democratic dispensation as is the case presently, one would expect that the citizenry would be treated to the basic necessaries of life. However, this is not the case. Many reasons have been given for this state of affairs in the economy. Against this background, there have been calls for the re-engineering of the country's development. As a matter of reality, no other time in Nigeria's history is the issue of development economically, socially, politically, etc, more apt than now.

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This paper is an exposé of the role reform will play in the nation's development, and its legal and judicial reform. Law reform or legal reform is the process of examining laws, and advocating and implementing changes in a legal system, usually with the aim of enhancing justice or efficiency[2]. It will be contended that reforms designed to improve the enforcement and administration of laws are likely to achieve positive and significant results.[3] This discourse is divided into six sections.

2. Conceptual Clarification of Key Terms

(a) Role: Role is any assumed character or function[4]; a function, played in life or in any event[5]. Words synonymous to 'role' include 'part', 'character', 'representation', 'portrayal', 'function', 'capacity', 'task', 'duty', 'position', 'situation'[6]. In the context in which it is employed in this discourse, it simply means the capacity of legal and judicial reform to affect or enhance or stimulate development in Nigeria.

(b) Legal: The word 'legal' means relating to, or according to, law; lawful; created by law[7]. Another source puts it as 'of or relating to law; falling within the province of law[8]. Thus, in the scope of this paper, given the subject matter, 'legal reform; simply refers to reform within the legal system of a country.

(c) Judicial: Pertaining to the administration of justice; of, pertaining to, or connected with a court or judge.[9] Similarly, another source puts it as of relating to, or by the court or judge.[10]

(d) Reform: This is defined as efforts to make things better by removing abuses, altering, etc., restore to a better condition.[11] It has also been described as mean to transform; to restore, rebuild; to amend; to make better; to remove defects from; to redress; to bring to a better way of like; *amendment or transformation, especially of a system or institution.*[12]

Thus, marrying the words 'legal', 'judicial', 'reform' together, we arrived at 'legal and judicial reform'; which is the process of examining existing laws, and

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2 Law Reform : Wikipedia, the free, encyclopedia, visited 23/3/2016

3 K. E. Davis & M. J. Trebilcock, 'Legal Reforms and Development', *Third World Quarterly*, vol. 22, No. 1, p.21

4 The New International Webster's Comprehensive Dictionary of the English Language, (2010 ed.) p. 1091

5 The Chambers Dictionary (10th Edition), p.1323

6 The Chambers Thesaurus (New Edition), p. 872.

7 The Chambers Dictionary, *supra*, p. 855.

8 Black's Law Dictionary, 9th Edition, p. 975.

9 Webster's Comprehensive Dictionary, *supra*, p. 690.

10 Black's Law Dictionary, *supra*, p.922.

11 Webster's, *supra*, p. 1060.

12 The Chambers Dictionary, *supra*, p. 1285; italics for emphasis.

advocating and implementing changes in a legal system, usually with the aim of enhancing justice or efficiency and therefore leading to economic, social and political development of a nation like Nigeria.

(e) Development: Development is a normative concept referring to a multidimensional process. Some persons argue that development must be relative to time, place and circumstance, and dismiss any universal formula.[13] Like almost every concept in the social sciences, development is broadly conceived. It goes beyond economic growth. It connotes the notion of human development which is described as incorporating 'all aspects of individual well-being; from their health status to their economic and political freedom. Therefore, development in the sense used includes economic, social and political advancement necessary to attain better lives.[14] The notion of 'better life' can be linked with the idea of self-actualization identified as the highest human need.[15] With regards to Nigeria, development may thus be said to mean the actualisation of the country's potential.

3. Legal and Judicial Reform in Historical Perspective

Here, it is intended to embark on a brief history survey on how far the debate has been that there is a causal link between legal and judicial reform on one hand and development on the other hand. Law and development has been an interesting field of discourse for about thirty years.[16] Some persons even submitted that it has been alive even before then – that in the 1960s and early 1970s interest in law and development flourished.[17] There are theories dating back centuries which serve as back-drop against which modern law and development theories are formulated and analysed.[18]

4. Conceptualisation of Legal and Judicial Reform

There has always been this argument: Whether legal systems have causal effect on the attainment of economic, social and political advancement by the inhabitants of nations that constitute the world. The issues it raises include: Whether there are

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13 Oxford Concise Dictionary of Politics (3rd Edition), Oxford University Press, 2009, p.148.

14 United Nations Development Programme, 'Human Development Report; htt://hdr.undp.org/en/humander2, last accessed 30/6/2015, cited in A.I. Layonu, '*The Law as an Instrument for Sustained Social, Economic and Political Development*' 4.

15 A.J. Maslow, 'A theory of Human Motivation' (1943) 50 Psychological Review, 370, cited by A. I. Layonu, *supra*, 40.

16 B. Tamanaha, '*The Lessons of Law and Development Studies*' (1995) 89 American Journal of International Law, 470.
D.M. Trubek and M. Galanter, '*Scholar in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United State*' (1974) Wisconsin Law Review, 1062.

17 Kelvin E. Davis & Michael J. Trebilcock, '*Legal Reforms and Development*', Third World Quarterly, vol. 22, No. 1, (2001) 25.

18 By Max Webber and Karl Max.

particular types of legal systems that trigger economic, social and political development; to the end that this can be established; can a transplant of legal system from relatively advanced countries to their less advanced counter-parts precipitate or hasten the development of the latter?

Thus, they are scholars, who through or based on their theoretical perspectives hold or make claims about the relationship between law and development. For instance, the modernisation theory defines development as a process of convergence on the institution of developed Western societies. On this view, underdevelopment is both caused by and reflected in traditional as opposed to modern institutions. The definitive modern institutions are free markets, a bureaucratic welfare state, a multiparty electoral system and civil and political rights.[19] This understanding of development, whose antecedent lies in the writings of Max Weber, implicates a wide range of legal institutions, including property law, commercial law, human rights law and administrative law.

It also suggests that it is important to have a competent and independent judiciary to uphold the rule of law.[20] Modernisation theory implies that the process of development can be hastened by transplanting legal institutions from developed Western countries to less developed countries (Trubek, 1972; Trubek and Galanter, 1974).[21] Other theoretical perspectives abound that give fillip to the claim of relationship between law and development. Suffice to mention them, as they would not be discussed in this paper due to space constraint. They include: dependency theory, economic growth, welfarism, feminism and sustainable development. Each of these theories in their respective way propounded that the law and legal institutions stimulate development.

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19 Kelvin and Trebilcock, *supra*, 22.

20 Kelvin and Trebilcock, *supra*, 22.

21 *opera citato*, 22

Conversely, with pomp, there are scholars who refute this claim, though not in its entirety.[22]

5. Scope of Legal Reform in Development

If legal reform, as we have argued does affect development, how far does it go? Perhaps, on the surface, this question may even appear unintelligible. However, upon a closer scrutiny, given some considerations, a discerning mind comes to realise how apt it is. There is the need to view development comprehensively, not narrowly, there has been scholars who tend to view development as having or been constituted of units or iota. In this light, expression such as 'economic development', 'social development' etc are often harped upon. Therefore, given this, the concept of legal and judicial reform is being tied to a specie of development, mostly, if not exclusively, economic development. The take of the writers of this paper is that, this should not be the case. Development is constitutive, all-embracing, wholestic, integrative. Development institutions, the World Bank, for instance, are of this view that:

> There is "development" in a general sense, and one can even perhaps talk about its economic, social, political or legal correlates. But, on this conceptually integrated extremist view, it would be misleading – or worse – to talk about economic development, legal development, etc., as separate entities. This is the kind of integrated view of development which has been championed by Mahbub al Hag in his pioneering and masterly exploration of the concept of "human development." We don't ask which kind of human development: economic, social, political or legal? Rather, human development encompasses all, and they can be, in this perspective, only seen together, not in isolation from each other. If such a radical view were

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[22] There are many scholars who have carried out empirical enquiries to demonstrate that reforms in law do not conclusively translate to development. Some of them include Cross, F.B. (1999) 'The Relevance of Law in Human Rights Protection, International Review of Law and Economics, 19, 87-88;Trebuk, D.M. (1972) 'Towards a social Theory of Law: An Essay on the Study of Law and Development,' Yale Law Journal, 82, pp. 1-50; Trubek, D.M. and Galanter, M. (1974) Scholars in Self estrangement: some reflections on the crisis in Law and Development Studies in the United State', Wisconsin Law Review, 1062 – 1102. These views notwithstanding, some of these scholars, albeit impliedly, did agree that as regards reforms with legal institutions, development may be affected. It is in this light that Kelvin and Trebilcock submitted: "We do not mean to convey the impression that there is no evidence to support the effectiveness of any specific legal form. There is definitely evidence to suggest that some reforms might have an impact on development. For example in the area of commercial law, using a cross-country multiple regression analysis Levine has found that countries which give a high priority to secured creditors receiving the full value of their claims have both better developed financial intermediaries and higher rates of economic growth." (Levine, 1999). Kelvin and Trebilcock 'Legal Reforms and Development, Third World Quarterly, vol. 22, No. 1, p. 29.

to be taken, then legal and judicial reform would be seen as contributing to the process of development in general (or, perhaps, to the process of human development seen as a whole), rather than separately to legal development, economic development and other fragmented concepts of development.[23]

There is even legal development as part of the comprehensive development framework. Thus, in the sense of comprehensiveness of development, legal development is not just about what the law is and what the judicial system formally accepts and asserts. Legal development must, as part of a larger picture of comprehensive development, take note of the enhancement of people's capability – their freedom – to exercise the rights and entitlements that we associate with legal progress. Given this need for comprehensive development – in particular legal development – the need to see legal development not just in terms of legislation and laws but in terms effective freedoms and capabilities.[24]

What, then, is the role of legal and judicial reform in the development process? Legal and judicial reform is important not only for legal development, but also for development in other spheres, such as economic development, political development, and so on, and these in turn are also constitutive parts of development as a whole. This is like the human body – each part links the other – and so when the eyes suffer an injury, the nose shares its grief.

4. Role of Legal and Judicial Reform in the Development of Nigeria

So far, we have had an overview of development. Here, the discourse will dovetail, with regards to the subject-matter, into Nigeria. It is the submission of the writers of this paper that legal and judicial reform will play a key role in the development of Nigeria, other factors being put in place. Why reform the Nigerian legal and judiciary institution? Generally, the primary service provided by the court is thought to be reliable and efficient dispute resolution. This service is important to development. Courts in Nigeria enforce contracts and properly rights, and secure property and enforce rights are important for fostering productive investment.[25] This invariably lead to economic growth. However, reform only in the letter of the substantive law (e.g. contract, tort, e.t.c.)

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23 Amartya Sen, '*What is the Role of Legal and Judicial Reform in the Development Process?* 7 –issat–dcaf-ch//learn/resource–library/policy-and-research/what-is-the-role-of-legal-and-judicial-reform-in-the-development-pv. Accessed 27 March, 2016.

24 *Ibidem*, p. 11.

25 North, Douglass, '*Institutions, Institutional change, and Economic Performance*'. Cambridge (Cambridge University Press, 1990 in Matthew c. Stephenson, '*Judicial Reform in Developing Economies: Constraints and Opportunities*, www.law.harvard.edu/faculty/instephenson/pdfsnews/judicialreformabcde.pdf. Accessed 12/3/2016.

without reform in the legal and judicial institutions that will adjudicate on the substantive law. A good example of commendable reform of substantive law in Nigeria is the input of the Lagos State government in respect of the Criminal Code Law of the state. For instance, under the Criminal Law of Lagos State[26], the offence of rape had moved beyond the common law position as it was obtained under the Criminal Code Act[27], though the law incorporated the common law position.[28] However, it went beyond it, as it created another sexual offence dubbed 'sexual assault by penetration'[29]. By this offence, aside the penis penetrating the vagina, as obtained under the Criminal Code Act, it could be penetrated by any part of the body, for instance, fingers, or anything else. This reform of the law on rape is a welcome development given the fact that the offence of rape had moved forward – and so the law must be upped.

Still on the Criminal Code Law of Lagos State, defilement of girls under sixteen and above thirteen, and idiots is classified as a misdemeanour.[30] Sexual molestation is experiencing geometric progression in Nigeria. In consequence thereof, the Lagos State Legislature upped its game to meet up with this menace by declaring the same offence to be a felony, and it attracts imprisonment for life.[31] Procedurally, still on the law of rape and sexual offences, there has been some reforms in the Nigerian Evidence Act.[32] Under the old Nigerian Evidence Act, to secure conviction in some sexual offences, the testimony of a single witness must be corroborated.[33] Happily, the new Nigerian Evidence Act does not contain this requirement. These legal reforms will not fly off the ground if they are not matched with institutional reforms. It is against this background that institutional change in the judiciaries of some states, particularly Lagos State, is in focus here. It is a thing of remarkable reform that in some courts, judges do not write in longhand as much as it was as the use of recording machine is now in use. Research assistants are attached to judges to assist them in research in Lagos State. There are persons who assist the judges in recording proceedings, though judges still record proceeding themselves.

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26 Commenced 2011.

27 Still operative in most of the states in Southern Nigeria.

28 See section 259, Criminal Law of Lagos State, Nigeria.

29 Section 259, Criminal Law of Lagos State.

30 Under Section 221 of the Criminal Code Act; while section 3, Criminal Code Act defines misdemeanour.

31 See, section 137, Criminal Code Laws, Lagos State. Other for reforms on the law on rape and other Sexual offences in Nigeria, see F.O.Iloh, *'Rethinking the Law of Rape and other Sexual Offences in Nigeria'* (Forthcoming).

32 Chapter 112, commenced 1st June, 1945.

33 Section 179(5).Those offences are in 218, 221,223 or 234 of the Criminal Code Act.

4.1 Electoral Matters.

No doubt, periodic election is one of the cardinal pillars of representative democracy. There has been so far reaching reforms here. Under the Electoral Act that mid-wifed the second republic, political parties could change their candidates whenever and how it pleases them. The Nigerian Supreme Court vide *Amaechi v. INEC*[34] made it clear to the People Democratic Party, and of course, by extension, other political parties that, in line with the Electoral Act that ushered in the forth republic, parties can only change their candidates only on credible grounds. Again, the use of card reader machine, though with its attendants hiccups, in the Nigeria general elections is heartwarming, considering its objective of eliminating, or at least, reducing electoral fraud.

4.2 Strengthening the machinery of combating corruption: A release some years ago by the British Broadcasting Corporation (BBC), puts the cost of corruption in Nigeria since 1960 at a staggering figure of 220 billion pounds.[35] This probably explains the slow pace of development as the adverse effect of corruption on national development is phenomenal. Anchored on these political objectives of the law[36], the government enacted legislation such as the Independent and Corrupt Practices Act; the Economic and Financial Crimes Commission Act.[37] Thus, the ICPC and EFCC were created to fight corruption by bringing alleged corrupt persons to justice. Critics are of the opinion the anti-graft commissions are selectively dispatched to achieve the individualistic political goals of those in power.[38]

4.3 Laws on the crime of kidnapping: In the last ten years or thereabout, the offence of kidnapping has been a menace almost across the entire landscape of Nigeria. Many states of the country have enacted laws that combat this menace. Same goes for the offence of human trafficking. There are units in the police now designated as Anti-kidnapping and trafficking respectively.

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34 Independent National Electoral Commission, the body saddled with the duty of conducting elections into elected public offices in Nigeria.

35 Sheriff Folarin, *'Corruption, Politics and Governance in Nigeria'*<htt://eprints.covenantuniversity.edu.ng/3249/1/folarin2.pdf> accessed 9/4/2016.

36 S 15(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

37 See, the corrupt practices and other Related offences Act, 2000; Economic and Financial Crimes Commission (EFCC) Act 2004.

38 PK Inokoba and WI Ibegu, *'Economic and Financial Crime Commission (EFCC) and Political Corruption: Implication for the consolidation of Democracy in Nigeria' (2011) 13 Anthropologist 283; O.O. Umoh and A.S. Ubom, 'Corruption in Nigeria: Perceived challenges of the Economic and Financial Crimes Commission (EFCC) in the Fourth Republic; U. Mohammed, 'Corruption in Nigeria: A challenge to Sustainable Development in the Fourth Republic'* (2013) 9 European Scientific Journal, 118.

4.4 Admissibility of Computer Generated Evidence: The law must be in tune with societal growth. It is the realisation of this that precipitated one of the reforms in the latest Nigerian Evidence Act. Prior to it under the old Act, computer generated documents were not classified as documents. The Nigerian Evidence Act 2011 has reformed the situation.[39]

4.5 Public Access to Information: Information, they say, is power. Government, particularly in a democracy, should be made to account for its stewardship, and to do this effectively, the public must have unhindered access to information. After much agitation, the Freedom of Information bill was finally signed into law. The Act established the right of any person to access or request information, whether or not contained in any written form, which is the custody or possession of any public official, agency or institution howsoever described, it is noteworthy to know that an applicant under this Act needs not demonstrate specific interest in the information being applied for. Furthermore, any person entitled to the right to information under the Act, shall have the right to institute proceedings in the court to compel any public institution to comply with the provision of the Act. [40] This Act keeps public officials on their toes. This will lead to economic growth since public official who implement the policies of the government will endeavour to deliver.

4.6 Reform of Fundamental Right Enforcement Procedure Rules: Fundamental rights are specie of rights considered, rightly, to be above other rights in any political society; hence, its entrenchment into the Nigerian constitutions since independence till date. However, in 2009, the Chief Justice of Nigeria, made a new rule for the enforcement of fundamental rights.[41] The new rules contain very far-reaching innovations that have helped to enhance human rights jurisprudence in Nigeria. The rules contains laudable objective in its preamble.[42] Notably, for the purpose of advancing but never for the purpose of restricting the applicant's rights and freedoms, the court shall respect municipal, regional and international bills of right cited to it or brought to its attention or of which the court is aware, whether those bills constitute instruments in themselves or form parts of larger documents like constitutions.[43]

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39 Section 258, Nigeria Evidence Act, 2011 on the interpretation of 'document'

40 Section1(1)(2), Freedom of Information Act 2011.

41 The CFRN, 1999 (as amended), chapter 4 provides for fundamental rights.

42 The rule is cited as the Fundamental Rights (Enforcement Procedure) Rules, 2009. It was made by Idris LegboKutigi, CJN (as he then was) on 1st December, 2009.

43 Such bills include (i) The African Charter on Human and Peoples Rights and other instruments (including protocols) in the African regional human rights system; (ii) The universal Declaration of Human Rights and other instruments (including protocols) in the United National human rights system.

We consider this objective quite significant, considering the case of *Abacha v. Fawehinmi*,[44] wherein some of the rights enshrined in chapter four of the Constitution as well as African Charter of Human and People Rights were in issue. In this case, the constitutional rights of the applicant were suspended by a despotic military regime of late Sani Abacha. The same rights are also in the African Charter under which the same applicant brought an application before the court for enforcement. Thus, the status of the Charter, among others, *vis-à-vis* the suspended rights in the Constitution was in issue. In a split decision, of four in favour and three against, the Supreme Court held that the Charter is an international instrument and therefore the country, as a signatory, was bound by its provisions it freely entered into. Therefore, against the *Abacha v. Fawehinmi's* case, the significance of this objective is brought to the fore. The rule also widened access to justice for litigants by removing the cog of *locus standi*; widened the scope of litigants; encourage public interest litigation etc.[45]

Lastly in this section, optimists of law and development seem to harbour the notion that different countries should be expected to experience similar forms of development. We do not share this opinion, rather we argue that development should be aligned with positive aspect of culture. Law is driven by respective societal norms; in fact law is normative. For example, countries across the world are, at the moment, striving for greater social and political advancement for their lesbian, gay, bisexual, and transgender citizens whose rights are being recognized, elevated and protected.[46] Nigeria has refused to toe this line. Constitutionally, the country has its fundamental objective principles totally at variance with gay marriage.[47] It is in line with this Nigerian culture that made the Nigerian National Assembly to pass into law Same Sex Marriage (Prohibition) bill. We consider this law a form of legal reform.

5. Constraints against Legal and Judicial Reform

The focus here is to examine basic and recurring problems that bedevil efforts to design and implement effective legal and judicial reform projects in Nigeria.

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44 For analysis of this case, see, F.O .Iloh and D.I. Njoku, *'Abacha v. Fawehinmi': Re-Evaluating the Fundamental Rights in the Face of Legal Positivism.'*

45 For more on the novel features of the Fundamental Rights (enforcement Procedure) Rules, 2009, see, F.O.Iloh, *'Fundamental rights Enforcement in Nigeria: wearing a New Garb?'*, University of Ibadan Law Journal, Ibadan, Ibadan University Press, 121-157.

46 Gay marriage declared across the US in Historic Supreme Court Ruling (The Guardian, 26th June, 2015) http://www.theguardian.com/society/2015/jun/26/gay-manage-legal-suprementcourt, accessed 21/3/2016

47 See section 17(3)(f); section 21, CFRN, 1999 for Nigeria's Fundamental Objective and Directive Principles of State Policy as it relates to social objectives and directive of Nigerian cultures.

5.1 Absence or Weak Judicial Independence: Without much ado, it is accepted widely that sound judicial machinery is an essential element of the rule of law and key to a country's development.[48] It has been argued that:

> A well functioning judicial system is required to stimulate investment both domestically and from abroad. Indeed, private investors seek a judicial system that protects property and contractual rights, and adjudicates disputes without capriciousness or undue outside influence. Further, fair and impartial judges protest the civil and political rights of citizens such as freedom of speech, association, and religion. Judiciaries that are institutionally weak, subject to corruption, and heavily politicized cannot fulfill these vital roles.[49]

Thus, legal and judicial reform cannot succeed without an independent judiciary? The World Bank accordingly defines an independent judiciary as

> One that issues decisions and makes judgments that are respected and enforced by the legislative and executive branches; that receive an adequate appropriation from the legislature; and that is not compromised by political attempts to undermine its impartiality.[50]

The Nigerian judiciary has its independence undermined by the executive branch of government. The refusal of former president Olusegun Obasanjo to release the fund of Lagos State government after the Supreme Court ordered him to do so, is still fresh on our minds. The manner by which the former President, Court of Appeal, Justice Ayo Salami, (JCA) exited from the judiciary leaves a sour taste in the mouth, as it, arguably, cast aspersion on the government. There are some ugly instances wherein state governors in manners, not less sordid, removed and appointed chief judges of state judiciaries. Indeed, government poses perhaps the most serious threat to judicial independence for two reasons – it has a potential interest in the outcome of myriad of cases, and it has so much potential power over judges.

Political interference in the judiciary process is a form of judicial corruption. Transparency International (TI) defines judicial corruption as "any inappropriate

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[48] Robert Laver, '*The World Bank and Judicial Reform: overcoming "blind spots" in the, Approach to Judicial independence.*' http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article = 128758 context=djcil

[49] *Ibidem*, p.186

[50] WORLD BANK, LEGAL AND JUDICIAL REFORM: STRATEGIC DIRECTION 55-63 (2003 World Bank Working Paper No. 26916).

influence on the impartiality of the judicial process by any action within the court system.[51] Further, together with bribery, TI deems political interference in the judicial process as the worst kind of judicial corruption. Again, political inference is expressed through threats, intimidation and bribery of judges in addition to the manipulation of judicial appointments, salaries and conditions of service.[52]

What is the way out? To start with, there should be values re-orientation on the part of the political class; thus there should be a change of political attitudes and behaviour. The government must abide and enforce judicial decisions that are against it, as to do otherwise amounts to executive rascality. Judges should be provided with tools that will help them operate independently. These tools include education, safety, reasonable working conditions and salaries, legal information, effective court and case management procedures, and a non-corrupt environment.[53]

Judicial institutions in a society cannot be viewed in isolation from its broaden cultural context and values. The problem of weak judicial independence in a society such as Nigeria, may stem from deeper cultural roots.

> Branches of judicial independence and impartiality are not merely an outgrowth of inadequate laws, poor institutional design, weak institutional capabilities, or even insufficient monitoring and accountability. The institutional environment in a society reflects its cultural values and attitudes. As one author puts it, "culture is the mother, institutions are the children," new rules and structures and improved institutional capabilities and accountability, while absolutely necessary for building a more independent and impartial judiciary, are certainly not sufficient if society lacks a foundation of strong cultural values of respect for the rule of law.[54]

The Nigerian society is one where wielders of power use political power and influence to promote favouritism for personal or political connections is often perceived as acceptable. This dysfunctional behaviour is not always limited to the political elite.

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51 Transparency International, Global Corruption Report xxi (2007)

52 Apart from political interference, interference may be brought to bear on the judiciary from other outside sources. Moreover, judicial interference in a broad sense is also a function of the judge's behaviour.

53 S.15 (5), CFRN, 1999, as amended – "The State shall abolish all corrupt practices and abuse of power."

54 Roberto Laver, *supra*, p.216.

There is a high degree of complicity among the citizenry. Relatives and friends expect favouritism and partiality from those with authority and influence. In the words of a Nigerian political leader, "Who gets to … a position of power and then refuses to help his people?"[55] There should be a re-orientation of societal values and ethics.

6. Conclusion

In this discourse, the role of legal and judicial reform in the development of Nigeria has been examined. The meaning of development and its various aspects were equally x-rayed. Specifically, the role of legal and judicial reform of various laws and judicial institutions were examined too. It is our hope that legal and judicial reform will turn the country's development around, if the constraints are fixed.

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[55] See Daniel Jordan Smith, *The Paradoxes of Popular Participation in Corruption in Nigeria'*, in CORRUPTION, GLOBAL SECURITY, AND WORLD ORDER 290 (Robert I. Rotberged; 2009), in Roberto Laver, p. 217.