

BARON DE MONTESQUIEU'S DOCTRINE OF SEPARATION OF POWERS AND THE INDEPENDENCE OF THE JUDICIARY IN NIGERIA

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Abstract

This study examines the independence of the judicial arm in Nigeria's current democratic engagement, using Montesquieu's doctrine of separation of powers as a theoretical framework. The existing literature on judicial independence in Nigeria tends to focus on constitutional provisions without sufficiently applying Montesquieu's tripartite framework as a diagnostic lens; this paper addresses that gap. Employing the hermeneutic method — specifically a Gadamerian interpretive approach — to analyse Montesquieu's *The Spirit of the Laws* (1748) as the primary text, the analysis reveals that, despite the constitutional provisions for an independent judiciary, political interference and inadequate funding, among other factors, make it difficult for the judiciary to operate freely as anticipated. This compromises the impartiality of the judicial arm of government, threatening the dispensation of justice, the rule of law and, consequently, undermining the democratic process. The paper aims to critically assess the independence of the judicial arm of government in Nigeria by applying Baron de Montesquieu's doctrine of separation of powers. The study highlights the importance of an independent judiciary and the need to prevent the abuse of power, thus promoting democratic governance. The study recommends adherence to the doctrine of separation of powers, adequate funding for the judiciary, and unbiased and uninterrupted checks and balances among the three arms, to ensure effective governance.

Keywords: Separation of Powers, Checks and Balances, Despotism, Democracy, and Judiciary

Introduction

The political history of human societies demonstrates a recurring lesson: the danger of excessive concentration of power in the hands of a single authority. From the autocratic rule of ancient emperors to absolutist monarchies in Europe and centralised modern governments, unchecked power has produced tyranny and oppression. This reality was particularly evident during the seventeenth and eighteenth centuries (i.e., the Enlightenment era), when political philosophers challenged the legitimacy of absolute rule. Among others, Charles-Louis de Secondat, Baron de Montesquieu, stands out for his influential work *The Spirit of the Laws* (1748). His most enduring contribution is the doctrine of separation of powers, which has shaped modern democratic governance worldwide.

In his reflections, Montesquieu classified governments into three types, namely despotic, monarchical, and republican, each sustained by a motivating principle. In his analysis, despotism thrives on fear, monarchies rely on honour, while republics are sustained by virtue and civic responsibility. Beyond these classifications, his most profound insight was that liberty cannot exist where legislative, executive, and judicial powers are concentrated in one body. For Montesquieu, separation of powers is indispensable to preserving political liberty, as it ensures that each branch checks the others, thus preventing tyranny. Liberty, as he defined it, is the individual's right to act within the bounds of the law, best guaranteed when governmental authority is divided among legislature, executive, and judiciary, each operating independently but in mutual restraint (Montesquieu, 1748/1949).

The significance of this doctrine is evident in modern constitutional democracies, where separation of powers serves as a foundational principle. Yet, in practice, it is often compromised in states with weak democratic institutions. Nigeria presents a compelling case, as the Constitution upholds separation of powers, but the judiciary frequently faces political interference, lack of autonomy, and repeated manipulation by the executive. These challenges erode its role as guardian of justice and undermine public confidence in the legal system. Scholars such as Nwabueze (2013) and Ojo (2013) have examined Nigeria's constitutional framework in this regard; however, the application of Montesquieu's specific tripartite model to the contemporary Nigerian judiciary remains underexplored. This paper addresses that gap by examining Montesquieu's doctrine in relation to the independence of Nigeria's judiciary, emphasising the need to strengthen institutional safeguards.

Methodology

This paper employs hermeneutics as its primary interpretive method. Specifically, it draws on the Gadamerian hermeneutic tradition, which involves a dialogical engagement between the interpreter and the text, seeking understanding through contextualisation rather than mere exegesis. The primary text subjected to hermeneutic interpretation is Montesquieu's *The Spirit of the Laws* (1748), with particular focus on Book XI. The analysis proceeds by reading Montesquieu's arguments against the backdrop of Nigeria's contemporary constitutional and political realities, thereby allowing the text to illuminate current challenges while permitting those realities to raise questions the text must answer. Secondary sources, including constitutional documents, judicial records, and peer-reviewed scholarship on Nigerian governance and Montesquieu's political philosophy, supplement the primary textual analysis.

Literature Review

The doctrine of separation of powers has attracted substantial scholarly attention. Vile (1998) traces its intellectual history from Locke through Montesquieu to the American Framers, demonstrating how the doctrine evolved from a normative ideal into a constitutional reality. Madison's Federalist No. 47 (1788/2001) remains an authoritative application of Montesquieu's ideas to constitutional design, arguing that the accumulation of all powers in one body constitutes the very definition of tyranny.

In the African and Nigerian context, Nwabueze (2013) offers a foundational examination of constitutional law in Nigeria, noting persistent tensions between constitutional provisions and political practice. Ojo (2013) identifies legislative weakness as a structural factor undermining checks and balances. Adangor (2015) specifically analyses the politicisation of judicial appointments in Nigeria, using the Rivers State crisis as a case study. Odigbo and Udalla (2022) examine the broader political dynamics of Nigeria's Fourth Republic, including executive overreach into the judiciary. These works collectively establish the empirical basis for this paper's claim that judicial independence in Nigeria is structurally compromised, while this study's contribution lies in providing a rigorous Montesquieuan analytical framework for diagnosing and addressing these failures.

The Doctrine of Separation of Powers

The separation of powers is widely recognised as a safeguard against excessive legislation and the concentration of authority. Montesquieu, drawing on historical evidence, observes that moderation in government is possible where power is clearly divided: "In most European kingdoms, the government is moderate because the prince, who has the first two powers [legislative and executive], leaves the exercise of the third [the power of judging] to his subjects" (Montesquieu, 1748, Book XI, Chapter 6). By distributing functions among distinct organs, strengthening checks and balances, and extending jurisdictions, it becomes difficult for any individual or faction to centralise power or pass laws contrary to the spirit of the people. This, for Montesquieu, was the foremost defence of liberty. His doctrine left a lasting imprint on the framers of the American Constitution, where separation of powers became the foundation of a new democratic order (Madison, 1788/2001).

The principle continues to shape modern democracies, where representative legislatures ensure that unjust laws can be repealed or amended. Even when enacted with good intentions, legislation may prove harmful; yet the resilience of separated powers allows for reform through responsive institutions. Montesquieu's insights remain relevant in analysing complex cases where laws have historically fostered systemic dysfunction by creating incentives for corruption across legislatures, law enforcement, and the judiciary.

Montesquieu further warned that "the English system will perish when the legislative power is more corrupt than the executive power" (1748, Book XI, Chapter 6). His caution underscores that separation of powers should not be a mere abstraction but a practical instrument to prevent tyranny and preserve liberty, especially through an independent judiciary.

Powers of Governmental Arms

A. The Executive

The execution and enforcement of laws fall within the purview of the executive branch, which is often regarded as the most powerful arm of government. It encompasses officials and institutions responsible for administering state affairs, including elected or appointed leaders, civil servants, law enforcement agencies, and security services. Depending on the system of government, this may involve the president and ministers in a presidential system or the prime minister and cabinet in a parliamentary system. Thus, the executive functions as the operational machinery of governance, ensuring that policies and laws are translated into concrete action.

A significant portion of Montesquieu's *The Spirit of the Laws* is devoted to the executive. He stresses that, to prevent abuse of power, the executive must remain distinct from both the legislature and the judiciary (Montesquieu, 1748, Book XI, Chapter 6). Montesquieu describes the executive as the authority charged with enforcing laws and directing the armed forces. To ensure prompt and effective governance, he argues that executive power should be vested in a single person, such as a king or president (Book XI, Chapter 7). This concentration, however, does not imply arbitrary authority but rather decisive leadership balanced by accountability and restraint.

Montesquieu identifies several qualities essential for effective executive leadership: unity to guarantee swiftness of action (Book XI, Chapter 7); stability and consistency to build public confidence; moderation to avoid tyranny; and virtue grounded in integrity and moral responsibility. He also emphasises wisdom to navigate political complexity, courage to confront challenges, and accountability to the people or their representatives (Book XI, Chapters 8-9). Furthermore, Montesquieu insists that executive power must be subject to checks and balances, parliamentary scrutiny, and judicial review to prevent its excesses (Book XI, Chapter 10). Ultimately, the executive preserves stability, safeguards liberty, and secures the prosperity of the state.

B. The Legislature

The legislature is a vital component of government, composed of elected representatives from various regions. Its primary responsibility is the creation, amendment, and repeal of laws and policies for the welfare of citizens. In democratic systems, the legislature provides a voice for diverse groups, ensuring effective representation of cultural, social, and regional interests. It is often regarded as the symbol of liberal democracy because, during periods of political instability such as military coups, legislatures are the first institutions to be dissolved, while the executive and judiciary frequently remain functional.

Legislatures can be either unicameral or bicameral. A unicameral legislature consists of a single chamber, whereas a bicameral system comprises two chambers: the lower and upper houses. In Nigeria, for example, the National Assembly embodies a bicameral system, with the House of Representatives led by a Speaker and the Senate presided over by a Senate President. Beyond passing laws, the legislature also modifies the constitution, oversees the executive, approves budgets, ratifies treaties, confirms appointments, and authorises declarations of war or emergency, among other functions. These functions underscore its role as the central organ of democratic governance and accountability.

Montesquieu devoted considerable attention to the legislature in *The Spirit of the Laws* (1748). He argued that the separation of powers between the legislative, executive, and judicial branches is essential to preventing the misuse of authority (Book XI, Chapter 6). Montesquieu supported a bicameral legislature, with one chamber representing the people and the other representing the nobility, as a safeguard against the concentration of power in a single body (Book XI, Chapter 7). He further stressed the importance of deliberation and careful consideration in the legislative process, insisting that representation must include the interests of all citizens (Book XI, Chapters 8-9). Thus, for Montesquieu, the legislature not only makes laws but also embodies the principle of balanced representation necessary for liberty and justice.

C. The Judiciary

The third arm of government plays a crucial role in interpreting and applying laws to resolve disputes between private citizens or between citizens and the government. The judiciary encompasses the court system and all those dedicated to upholding justice. Baron de Montesquieu's works and ideas have had a lasting impact and continue to be influential in modern political landscape.

Montesquieu's understanding of the judiciary plays a vital role in his political theory, as discussed in *The Spirit of the Laws* (1748). According to Montesquieu, it is crucial to maintain a clear separation between judicial power and the executive and legislative powers. This separation serves as a safeguard against the potential misuse of authority (Montesquieu, 1748, Book XI, Chapter 6). Montesquieu highlights the significance of a judiciary that operates independently, without being influenced by the executive (Montesquieu, 1748, Book XI, Chapter 10). According to Montesquieu, the ideal composition of the judiciary should consist of judges who possess qualities such as impartiality, wisdom, and experience (Montesquieu, 1748, Book XI, Chapter 13). The judiciary's main responsibility is to interpret laws and guarantee their enforcement. Montesquieu emphasises the importance of judicial restraint, stressing the need for judges to remain within their prescribed limits (Montesquieu, 1748, Book XI, Chapter 15).

The Doctrine of Checks and Balances

The Doctrine of Checks and Balances is a foundational principle of political theory, systematically articulated by Montesquieu in *The Spirit of the Laws* (1748). The doctrine stresses the distribution of political authority across different branches of government to avoid the concentration of power in a single institution. Montesquieu (1748, Book XI, Chapter 6) explained that the legislative, executive, and judicial powers must remain distinct and operate independently, each assigned separate functions and limitations. This arrangement, fortified by checks and balances, serves as a safeguard for liberty and as a barrier against arbitrary rule.

Montesquieu gave particular attention to the legislature, which he identified as the organ empowered to make laws (Book XI, Chapter 7). Yet, he cautioned against unchecked legislative dominance. The executive may veto laws, while the judiciary can strike down unconstitutional enactments (Book XI, Chapters 10-11). Conversely, the legislature itself provides counterweights by controlling finances, ratifying treaties, overseeing executive action, and initiating impeachment proceedings (Book XI, Chapter 12).

The executive, led by a single authority, is responsible for implementing laws, directing administration, and commanding the armed forces (Book XI, Chapter 8). Montesquieu highlighted the dangers of executive centralisation and proposed limits on its power. Legislative impeachment, budgetary constraints, and judicial review serve as external checks (Book XI, Chapters 10-12). Meanwhile, the executive can veto legislation or issue directives, though both remain subject to review and oversight (Book XI, Chapter 13). Internal mechanisms, including cabinet deliberations and bureaucratic procedures, further diffuse executive authority (Book XI, Chapters 14-15).

The judiciary, entrusted with interpreting laws, was described by Alexander Hamilton as "the least dangerous branch" (Federalist No. 78, 1788), a characterisation consistent with Montesquieu's view that the judiciary, while essential, must not act without restraint (Book XI, Chapter 9). While the executive appoints judges and the legislature can impeach or restrict judicial funding (Book XI, Chapters 10, 12), the judiciary retains formidable checks of its own. Through judicial review, it can nullify unconstitutional laws or executive orders, while interpretative authority ensures coherence and stability in legal practice (Book XI, Chapter 11). Thus, Montesquieu envisioned governance as a dynamic system of mutual limitation: the legislature may impeach the executive, the executive may veto laws, and the judiciary may void unconstitutional measures (Book XI, Chapters 10-11). These reciprocal restraints prevent the supremacy of any single branch, securing liberty, balance, and constitutional stability.

Fundamental Laws of Democratic Government

Comparing the democratic practices of various city states — Athens, Sparta, and Rome — Montesquieu states that democracy is simply "when the body of the people possess the sovereign power in a republic," but "when only a portion of the people have a part in rule, it is an aristocracy" (Book II, Chapter 2).

Montesquieu was attentive to those with sound economic and political plans that would benefit the majority of people. In *The Spirit of the Laws*, Montesquieu identifies the following characteristics that he regards as fundamental to a democratic republic: (i) the citizens are seen as both monarchs and subjects; (ii) when citizens cast their votes in an open and general election, the governing authority accepts the will of the people without compromising it by imposing its own interests; (iii) since the same citizens who are members of the state both make laws and are subject to those laws, they must function simultaneously as rulers and as the ruled.

In a democratic state, the people themselves determine who is considered eligible to vote in the general election and who is entitled to cast a ballot. By doing this, the true composition of the citizenry may be determined, thereby distinguishing full citizens from slaves and foreigners.

Having determined who is entitled to vote, Montesquieu suggests that smaller democracies use head counts for voting. In vast democracies such as classical Rome, however, he recommends that voting be conducted on the basis of class and tribal distinctions. This arrangement ensured that wealthier citizens did not simply find their votes nullified by the numerical majority of the poorest residents.

Lottery voting is another essential principle of democratic governance, as per Montesquieu. According to him, voting by lot suits democracies, while voting by deliberate choice is better suited for aristocracies. He supports lottery voting because it gives every citizen a strong sense of

participation and increases everyone's chances of being selected. He believes this will lessen conflict, bloodshed, and rivalry, and that the approach will always yield capable officeholders who are acutely aware of their accountability to the public.

Open voting is what Montesquieu supports so that individuals can follow and hold accountable those who represent them. According to Montesquieu, society should be structured so that only members of the higher classes are qualified to assume positions of political authority, though all citizens — regardless of wealth — should be permitted to participate in the popular assembly, vote for elected magistrates, and serve on juries (Book II, Chapter 2).

Montesquieu was an admirer of Aristotle's conception of moderate democracy (Aristotle, *Politics*, Book IV). According to this fundamental law of democracy, the people's assembly should have the authority to enact laws. He contends that this assembly ought to create a senate with the authority to enact decrees, subject to review and renewal, that carry enforceable effect for a defined period.

Baron de Montesquieu and Independence of the Judiciary in Nigeria

The independence of the judiciary is a cornerstone of democratic governance, ensuring that courts operate as impartial arbiters and as a check on the powers of the executive and legislature. Montesquieu's theory of separation of powers emphasises the judiciary's autonomy as a vital safeguard against the misuse of authority and the concentration of power. In the Nigerian context, although the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended) guarantees judicial independence, this principle is frequently undermined by political interference, corruption, and inadequate funding. Montesquieu would argue that such weaknesses erode the separation of powers and compromise the very foundation of justice.

One of the most pressing challenges is persistent political interference. The executive and legislative branches often exert pressure on judges, undermining impartiality and eroding public confidence in the judiciary. Montesquieu warned that when powers intermingle, authority becomes dangerously concentrated (1748, Book XI, Chapter 6). In Nigeria, this is evident in the politicisation of judicial appointments, where loyalty and connections often outweigh merit. The case of Governor Amaechi's refusal to appoint Justice D. Okocha as Chief Judge of Rivers State illustrates how executive discretion can be weaponised against the constitutional appointment process (Adangor, 2015). Similarly, the circumstances surrounding the suspension of Chief Justice Walter Onnoghen in 2019 — widely criticised as procedurally irregular — demonstrated the vulnerability of even the nation's senior-most judicial officer to executive pressure (Odigbo & Udalla, 2022). Such practices compromise neutrality and expose the judiciary to manipulation, weakening its ability to serve as a genuine check on government excesses.

Another critical concern is financial dependence. The executive's control over judicial budgets creates an avenue for undue influence, limiting autonomy and independence. Montesquieu would insist that financial self-sufficiency is essential for impartial justice, as it allows judges to resist external pressure (1748, Book XI, Chapter 10). Furthermore, the judiciary itself struggles with limited transparency and accountability, leaving it vulnerable to internal inefficiencies. Corruption compounds these issues, threatening the integrity of the entire system. Reports of bribery and undue influence in judicial processes erode credibility and diminish the rule of law. Montesquieu

consistently cautioned that corruption destroys public trust and undermines justice, a warning that resonates strongly with Nigeria's reality.

Underfunding further weakens the judiciary's capacity. With inadequate infrastructure, insufficient resources, and personnel shortages, the courts are ill-equipped to dispense justice efficiently. While it is acknowledged that reform efforts have been initiated — including the National Judicial Council's attempts to standardise appointment procedures and insulate the judiciary from political patronage — these remain inadequate and inconsistently implemented. Montesquieu would highlight that only a properly resourced and institutionally protected judiciary can remain resilient and independent. To strengthen judicial independence, Nigeria must curb political interference, combat corruption, ensure merit-based appointments, and prioritise adequate funding. These reforms are vital if the judiciary is to reflect Montesquieu's vision and serve as the true guardian of democratic governance.

The Appointment of Judicial Officers in Nigeria

The appointment of judicial officers by the executive arm, as previously noted, is a well-established practice at both the federal and state levels. Two methods are discernible from the appointment process under the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended):

- 1 The initial appointment process involves the President or Governor acting on the National Judicial Council (NJC) recommendation, which is then confirmed by the Senate or the House of Assembly, respectively.
- 2 An alternative method of appointment occurs when the President or Governor acts solely on the basis of the NJC recommendation, without further legislative confirmation.

The appointment procedure can be manipulated in a way that the appointed judicial officers become mere instruments of the executive. The process of judicial appointment has unfortunately devolved into a system where political loyalty takes precedence over professional merit. Although the executive is bound to appoint only those who are recommended, they can exploit loopholes in the law to prevent the appointment of a candidate who, despite being recommended, does not align with their political preferences. This was the situation in Rivers State when Governor Rotimi Chubuike Amaechi declined to appoint Hon. Justice D. Okocha as Chief Judge of Rivers State (Adangor, 2015). The appointment of judicial officers by the executive is a significant structural issue in the Nigerian legal system, which greatly impacts the independence of the judiciary. Another aspect of this problem is the potential removal of judicial officers by the executive (Adangor, 2015). A major concern regarding such removals is the consistent abuse of power observed in Nigeria: the Governor of Kwara State made an attempt to remove the Chief Judge, as highlighted in the Elelu-Habib case. In 2019, Chief Justice of Nigeria Walter Onnoghen was suspended by the President Buhari-led executive in a manner that appeared to disregard the established legal procedure, and he subsequently resigned (Odigbo & Udalla, 2022).

The National Judicial Council

The National Judicial Council (NJC) is a constitutional body established under Section 153 of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended). The NJC plays a

crucial role in upholding the autonomy and ethical standards of the judiciary in Nigeria (Nwabueze, 2013).

Structure

The NJC is composed of the highest-ranking judicial officials in Nigeria, including the Chief Justice of Nigeria, the President of the Court of Appeal, and the Chief Judges of various courts. Additionally, the President appoints five other members on the recommendation of the Chief Justice of Nigeria (Section 153, CFRN, 1999).

Roles and Purposes

The NJC serves various purposes, including:

- i. Appointment and promotion of Judges (Section 153(2), CFRN, 1999).
- ii. Discipline and removal of Judges (Section 153(3), CFRN, 1999).
- iii. Upholding the autonomy and integrity of the judiciary (Nwabueze, 2013).
- iv. Developing policies for the advancement of the judiciary (Ojo, 2013).

Powers

The NJC has the authority to:

- i. Advise the President on the appointment of Judges (Section 153(2), CFRN, 1999).
- ii. Conduct inquiries and take appropriate action against judges for misconduct (Section 153(3), CFRN, 1999).
- iii. Establish guidelines and protocols for the fair and effective administration of justice (Nwabueze, 2013).

Obstacles

Despite its significant roles and powers, the NJC encounters various obstacles, including:

- i. Interference in the appointment and promotion of judges (Ojo, 2013).
- ii. Addressing issues of corruption and misconduct within the judicial system (Nwabueze, 2013).
- iii. Insufficient financial support and limited resources for the judiciary (Ojo, 2013).

Overall, the National Judicial Council has a vital role in upholding and preserving the autonomy and credibility of the judiciary in Nigeria. Nevertheless, numerous obstacles must be addressed in order to guarantee the efficient discharge of its mandate.

The State Judicial Council

The State Judicial Council (SJC) is a constitutional body established under Section 197 of the Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended). While the SJC mirrors the NJC in several structural respects, it operates at the state level and confronts a distinct set of challenges arising from the dynamics of state executive power and the relative fragility of state-level institutional frameworks (Nwabueze, 2013).

Structure

The composition of the SJC includes the Chief Judge of the state serving as Chairman, followed by the next most senior Judge of the state High Court, the President of the Customary Court of Appeal, the Grand Khadi of the Sharia Court of Appeal, and two additional members appointed by the Governor on the recommendation of the Chief Judge (Section 197, CFRN, 1999).

Purposes

The SJC serves various roles and responsibilities, including:

- i. Appointment and promotion of state Judges (Section 197(2), CFRN, 1999).
- ii. Discipline and removal of state Judges (Section 197(3), CFRN, 1999).
- iii. Upholding the autonomy and integrity of the state judiciary (Nwabueze, 2013).
- iv. Developing policies for the advancement of the state judiciary (Ojo, 2013).

Powers

The SJC has the authority to:

- i. Advise the Governor on the appointment of state Judges (Section 197(2), CFRN, 1999).
- ii. Conduct inquiries and take appropriate action against state Judges for misconduct (Section 197(3), CFRN, 1999).
- iii. Establish guidelines and protocols for the governance of justice within the state (Nwabueze, 2013).

At the state level, the SJC faces challenges that are, in several respects, more acute than those confronting the NJC. State governors exercise considerable informal influence over judicial appointments, and the relative scarcity of resources at the state level renders the state judiciary more financially dependent and thus more susceptible to executive pressure. The pattern of gubernatorial interference documented by Adangor (2015) in Rivers State exemplifies the systemic vulnerabilities of the SJC framework.

The Independence of the Judiciary in Nigeria

The concept of judicial independence is universally acknowledged as a cornerstone of democratic governance, though its application varies across nations. In Nigeria, the principle of an independent judiciary is not only a constitutional guarantee but also a moral imperative tied to the protection of human dignity and the sustenance of democracy. Yet, the idea is often misunderstood, undervalued, or reduced to mere lip service. A proper understanding of the independence of the judiciary is crucial, as it defines the scope of the judiciary's duties and responsibilities in maintaining the democratic state.

The doctrine does not have a universally accepted definition; it can be examined through judicial, constitutional, political, and economic lenses. At its core, it insists that judges and the judiciary as an institution must carry out their functions free from undue influence by the executive, legislature, fellow judges, the media, or public opinion. Judicial officers must be able to decide cases impartially, guided strictly by the facts and applicable law, without fear or favour. Such autonomy ensures fairness, protects fundamental rights, and maintains the integrity of the legal system.

In Nigeria's history, weak judicial independence contributed to democratic failures, notably during the First and Second Republics, where a judiciary susceptible to political manipulation proved unable to adjudicate electoral disputes impartially, thereby delegitimising the democratic process and creating conditions conducive to military intervention. For democracy to thrive, both institutional and individual independence of the judiciary are essential. Institutionally, the judiciary must operate free from control by other arms of government. Individually, judges must exercise impartiality, resisting pressures from political or social forces. This ensures equal treatment for all citizens irrespective of political affiliation, social standing, or economic influence.

Importantly, judicial independence should not be misconstrued as unpredictability, arrogance, or reckless activism. Rather, it represents a transparent, accountable mechanism for safeguarding rights and upholding the rule of law. A judiciary that is truly independent acts as the guardian of democracy, ensuring that justice is not only done but seen to be done. The continued entrenchment of this principle remains vital to Nigeria's democratic consolidation.

Conclusion

This paper has examined the independence of the judiciary in Nigeria within the framework of Montesquieu's doctrine of separation of powers. Although the Nigerian constitution guarantees judicial independence, political interference, corruption, and poor funding undermine its effectiveness. These problems compromise impartiality, weaken the rule of law, and endanger democratic governance. Without a judiciary free from external control, the protection of rights and the prevention of abuse of power remain unattainable. Strengthening judicial autonomy, ensuring adequate resources, and minimising political influence are therefore necessary to secure justice and fairness in society.

The doctrine of separation of powers acts as a safeguard against corruption, arbitrariness, and poor governance. Political realities, however, often require the development of new institutional conventions and legal frameworks to sustain liberty and democracy. Although Nigeria faces significant challenges in striking this balance, the constitutional architecture exists to support reform, and constructive legislative, judicial, and civil society engagement can strengthen constitutionalism. The study maintains that, despite evident weaknesses, constitutionalism continues to hold genuine promise for Nigeria's political stability, provided the will to reform is matched by consistent institutional action.

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