

**PROBLEM OF CONSOLIDATING DEMOCRACY IN NIGERIA: AN EXAMINATION OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED) \***

**Abstract**

*The focus of this paper is on examining the provisions of the 1999 Constitution on consolidating democracy in Nigeria. It also examines the role of the legislature and the judiciary in consolidating democracy in the process. Democracy is consolidated when the legislature and the judiciary function in compliance with the Constitution and the rule of law for socio-economic and political stability. Adherence to the rule of law and constitutional provisions by the legislature and the judiciary in discharging their constitutional obligations guarantees democratic stability. This paper assesses how the legislature and the judiciary have contributed in consolidating democracy and how best they can continue to do that. However, challenges of the legislature and the judiciary in this regard are also examined. In doing this, the paper adopts doctrinal research methodology. Data for the study is generated mainly from primary and secondary sources. Amidst high level of violations of the Constitution in the nation's political landscape, this paper concludes that unless the legislature and the judiciary uphold the Constitution and dispense justice according to the rule of law, consolidating democracy would always suffer a setback. It is in view of this that the paper made some suggestions on the way forward in consolidating democracy in Nigeria by the legislature and the judiciary.*

**Keywords:** Constitution, Consolidation, Democracy, Legislature, Judiciary

**1. Introduction**

Consolidating democracy means the deepening and sustaining democratic governance so that the system does not relapse into earlier undemocratic experience and dictatorship.<sup>1</sup> It entails entrenching transparency, good governance, and integrity in the democratic process such as entrenching the rule of law, conduct of credible elections, and strengthening the institutions of government.<sup>2</sup> To discuss the problem of consolidating democracy in Nigeria, the paper examines the role of the legislature and the judiciary in consolidating democracy in Nigeria under the 1999 Constitution (as altered). The paper also discusses the challenges of consolidating democracy by the legislature as well as the role of the judiciary in the process. To do this, it adopts doctrinal research methodology and studies relevant literatures as well as using primary and secondary source of materials for the research. The paper is divided into five sections. Section one is the introduction. Section two is the examination of the role of the legislature in consolidating democracy in Nigeria. Section three examines the role and attitude of the judiciary in consolidating democracy in Nigeria. Section four is a study of the challenges to consolidating democracy in Nigeria. Section five is the conclusion of the paper with suggestions for the way forward.

**2. The Role of the Legislature in Consolidating Democracy in Nigeria**

The Nigerian Legislature is the driver of consolidating democracy<sup>3</sup> and the institution which is empowered by the Constitution to make laws for sustaining democracy<sup>4</sup>. The Nigerian legislature is set up to represent the people and play central roles in constitutional democracy.<sup>5</sup> Democracy depends on legislators for its viability. As an Israeli Supreme Court Justice expresses it, 'The foundation of democracy is a legislature elected freely and periodically by the People. Without majority rule, as reflected in the power of the legislature, there is no democracy.'<sup>6</sup> The Nigerian legislature play critical role in consolidating democracy in Nigeria by its collective check on the executive through oversight responsibilities and confirmation powers over certain nominees appointive and judicial office.<sup>7</sup> The Nigerian Legislature also play unique role in consolidating democracy in Nigeria by framing the nation's laws and policies and ensuring that the government is open, transparent, and accountable. The African Governance Report eloquently summarizes the roles of the Nigerian legislature in consolidating democracy:

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<sup>1</sup> Dudley, B.J., *Instability and Political Order: Politics and Crisis in Nigeria*, Ibadan, (University of Ibadan Press, 1973), 144

<sup>2</sup> Dudley, B.J., *An Introduction to Nigerian Government and Politics*, London, Macmillan Press Ltd, 13

<sup>3</sup> Oko, O., *Legislators in Changing and Challenging Times: An Analysis of the Nigerian National Assembly*, New Jersey, (Goldline and Jacobs Publishing, 77), 10

<sup>4</sup> The Constitution of the Federal Republic of Nigeria 1999 (as altered) Section 58 (1-5)

<sup>5</sup> The Constitution of the Federal Republic of Nigeria 1999, Section 4

<sup>6</sup> Aharon, Barak, 'Forward: A Judge on Judging: The Role of a Supreme Court in a Democracy' [2002], *Harvard Law Review*, (vol. 19), 136

<sup>7</sup> The Constitution of the Federal Republic of Nigeria 1999 (as altered), Sections 231 (1) & (2) and 147(2)

Another key function of the Nigerian legislature in consolidating is acting as a forum for the representatives of the people to articulate the needs and aspirations of their people, constituencies, express their grievances and anxieties, demand that wrongs done by the executive be rectified, debate public issues and policy options and take decisions in the in the interest and welfare of all the people in the country.<sup>8</sup>

The Nigerian Legislature have played vital roles in consolidating democracy through law making, representation, oversight functions, and investigations.<sup>9</sup> Since the return to democracy in 1999, the legislature have played very significant roles in consolidating democracy in Nigeria. Beginning with the establishment of the Independent Corrupt Practices and Other Related Offences Commission (ICPC) in 2002,<sup>10</sup> the legislature in 2004 established the Economic and Financial Crimes Commission (EFCC).<sup>11</sup> With these agencies in place, corruptions are being tackled and transparency in governance is being restored thereby consolidating democracy in Nigeria. However, the legislature should be proactive in amending the laws establishing these agencies in view of changing environments. The legislature should also be more concerned about its powers under the Constitution.<sup>12</sup>

### 3. The Role of the Judiciary in Consolidating Democracy in Nigeria

Looking at the judiciary as the third arm of government and its role it plays in government, the question could be: what roles should the judiciary play in consolidating democracy in particular? Can the courts do more than they are already doing? In its participation in political process, what baseline principles ought the judiciary to pay more attention to? All these questions assume that judicial participation in political process is a fact of social life. To answer these questions, this paper argues that the courts in the face of challenges militating against consolidating democracy, are expected to be above board, and seek, in moment of uncertainty to deliver decisions which preserve and advance democracy and the community. In doing this, the courts may go far to give decisions which will solve the root problems that truncate. Denton-West gave voice to this utilitarian, root-of-the matter thinking in Hon. *Balonwu v Obi*<sup>13</sup> when she stated:

The Constitution of our great country Nigeria is observed more by payment of lip service to its content than in upholding the same. The breach of the Constitution by all and sundry more especially by our leaders is appalling, and this had led to lack of good governance and sustenance of democracy---It is this ridiculing of our laws that led to this unwholesome spate of litigations, impeachments, corruption and indeed dangerous politicking that has thrown the society into traumatic convulsions.

Courts should refrain from delivering ‘political justice’ judgments instead courts should strive in all circumstances to give judgments that meet the position of law on the matter and which also satisfies the standard of justice of the matter.<sup>14</sup> Trading off justice for political consideration or for political stability is not constitutional and must be avoided by the courts.<sup>15</sup> Courts at all levels should adopt the attitude of protector of society in defining the contours of democracy and rule of law in Nigeria. They should intervene in determining the balance of power between the federal and State governments; in deciding political disputes and resolving issues of constitutional question. Emphasis of courts in in deciding cases before them should be in tandem with what Oputa JSC (as he then was) who stated in *Godwin Josiah v The State*<sup>16</sup> that ‘every judgment must offer justice, not only to the parties before the courts, but also to the other stakeholders, including the society’. The guarantor of the Constitutionalism is the judiciary. As the arm charged with bringing the executive and the legislature within the boundaries of their constitutional powers, courts ought to stand firm in upholding the rule of law and dispensing justice without fear or favour.

Notwithstanding some challenges, the judiciary has contributed significantly to consolidating democracy in Nigeria. From First to Second Republics (1960-1966, 1979 – 1983) to date, the judiciary has proved it worth in consolidating democracy in Nigeria.<sup>17</sup> In this respect, Nigeria’s attempts at establishing and consolidating

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<sup>8</sup> United Nations Economic Commission for Africa, *African Governance Report*, 2005, 123

<sup>9</sup> Oko, O., (n 4)

<sup>10</sup> Independent Corrupt Practices and Other Related Offence (Establishment) Act, No.5 2000

<sup>11</sup> Economic and Financial Crimes Commission (Establishment) Act, 2004

<sup>12</sup> The Constitution of the Federal Republic of Nigeria 1999 (as altered) Section 4(1-5)

<sup>13</sup> (2007) 5 NWLR (Pt. 1028) 488 at 554-555

<sup>14</sup> *Buhari v INEC* (SC51/2008)

<sup>15</sup> *Buhari v Obasanjo* (2005) 13 NWLR (Part 900) 487

<sup>16</sup> (1985) 1 SC 406

<sup>17</sup> Amucheazi, O.D. & Onwuasoanya, C., *The Judiciary, Politics and Constitutional Democracy in Nigeria (1999-2007)*, Enugu, Snaap Press Ltd, 98-153

democracy since 1960 have produced landmark decisions in the courts in support of the concept of democratic consolidation. In the case of *Balewa v Doherty*,<sup>18</sup> The Supreme Court of Nigeria voided the Commissions and Tribunal of Enquiry Act of 1961. Declaring the Act null and void, the Supreme Court held that the Act did not have jurisdiction to judge the regional competence of the Western Region to manage its own affairs and had no right to question the conduct of civil servant in the Western Region, which was an independent unit with its own Constitution. Slowly and steadily, Nigeria's judiciary is restoring internal party democracy into the political system. First, when Dr. Chris Ngige was illegally declared the Governor of Anambra State in April 2003, it was the court that restored the people's mandate freely given to Peter Obi. This role the judiciary has continued to play in all cases of electoral malpractice and injustice across the Federation from 1999 till date. The judiciary has been nullifying many of the rash and unconstitutional impeachments of many deputy governors and indeed nullification of the impeachments of former Governor Murtala Nyako of Adamawa State as well as some ex-Deputy Governors of Sunday Onyebuchi of Enugu State, Mohammed Garba Gadi of Bauchi State, and Ali Olanusi of Ondo State. Some of the notable cases where the judiciary has played prominent role in consolidating democracy in Nigeria are highlighted below.

The first was the case of *Attorney General of Bendel State v Attorney General of the Federation*<sup>19</sup>. In this case, the Supreme Court of Nigeria held that The Allocation of Revenue (Federation Account, etc.) Act, 1980, was invalid as the process of passing the Bill into law did not follow due legislative process and procedures in accordance with the 1979 Constitution and procedural rules of the two Houses of the National Assembly. Again, in *Mike Balonwu & Ors v. Peter Obi*<sup>20</sup> the Court held that the failure by the Anambra State House of Assembly to serve the appellant with Notice of gross misconduct within seven days as required by section 188(2) of the 1999 Constitution violate all subsequent impeachment process and rendered same void. Also, in *Hon. Muyiwa Inakoju v Rashidi Adewolu Ladoja*<sup>21</sup>, the Supreme Court held that Oyo State House of Assembly breached section 188 of the 1999 Constitution by holding impeachment process in a hotel. In *Olisa Agakoba v Attorney General of the Federation*<sup>22</sup>, the Federal High Court (per justice Okeke) held that the President is a party to constitutional amendment process, therefore his assent is required in amended Constitution. In *Olisa Agbakoba v Federal Government Ors.*<sup>23</sup>, the Court held that the rationale for independence of judiciary is to enable the court to freely decide cases and uphold democracy without external influence.

#### *Conflicting Judgments of the Court of Appeal*

Much as it is commendable the way the judiciary has been redressing injustices in electioneering process and internal party democracy, the problem of conflicting judgments of courts on pre- and post-election cases is a source of worry in the efforts by the judiciary to consolidate democracy in Nigeria.<sup>24</sup> For instance the Chairman of INEC Professor Mahmood Yakubu revealed in a conference that despite subsisting judgments of the Supreme Court, there were indeed conflicting decisions by the appeal courts arising from the 2015 general elections.<sup>25</sup> The Chairman further revealed that on the 15<sup>th</sup>, 16<sup>th</sup>, and 18<sup>th</sup> January 2018, the Commission received 11 court judgments and orders, almost all of them conflicting.<sup>26</sup> Thus, in *Amosun v Daniel*,<sup>27</sup> the Court of Appeal held that one Tunde Yadeke was not an expert in the examination and analysis of electoral materials. But, in the *Aregbesola v Oyinola*<sup>28</sup>, the same Court of Appeal ruled that Tunde Yadeke was an expert. Also in *Obumneke v Sylvester*<sup>29</sup> the issue for determination was whether the Petition was incompetent in view of the fact that the petitioner failed to use the exact words used by the legislature of the First Schedule to the Oaths Act, 2004, in concluding his statement on Oath. The Court of Appeal held that failure to use the exact words or format prescribed by the legislature in the 1<sup>st</sup> Schedule to the Oaths Act in concluding the Statements on Oath is fatal and rendered the Statements inadmissible. However, the same Court of Appeal on the same issue in *Ibrahim v INEC*<sup>30</sup> held

The clear intention of the legislature under the Oath Act titled 'Statutory Declaration' is to afford persons who intend to make declarations such as marriage, age or assets to subscribe to that

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<sup>18</sup> (1961) 1 ANLR 604

<sup>19</sup> (1983) All NLR 203

<sup>20</sup> (2007) 5 NWLR (Pt. 1012) 25

<sup>21</sup> (2006) NWLR (Pt. 1012) 66 Para. 2-3

<sup>22</sup> Unreported FHC Lagos 2010

<sup>23</sup> Suit No. FHC/ABJ/CS/63/2013

<sup>24</sup> Amucheazi, O.D. and Onwuasoanya, C., (n 16), 22-40

<sup>25</sup> Law and Society, Leadership Newspaper, Thursday, March 14, 2019, 34, www.leadership.ng

<sup>26</sup> Ibid

<sup>27</sup> (2009) LPELR-CA/1/EPT/FCH/CS84

<sup>28</sup> (2010) LPELR-CA/EPT/Gov./02/2010

<sup>29</sup> (2010) All FWLR (pt. 506) 1945 at 1961

<sup>30</sup> (2007) 3 Election Petition Reports 50 at 66

declaration. It is not the intention of the legislature that the wording of the declaration be incorporated in the affidavit to render it invalid' This means that non-compliance is not fatal to Petition and is admissible. In view of this, what this paper may call 'political justice' will require higher degrees of social sensibility by the courts. In this context, Oputa JSC (as he then was), insisted that every judgment must be consistent with precedents and must offer justice, not only to the parties before the courts, but also to other stakeholders, including the society.<sup>31</sup>

#### *Problems of Consolidating Democracy in Nigeria*

##### (a) The 1999 Constitution: Consolidating Democracy and legitimacy Crisis

The 1999 Constitution is the legal basis for and application of the federal principles. However, since 1999, the legitimacy of the Constitution has been challenged by a spate of fatal ethnic/religious conflicts and violent demands for restructuring the Nigerian federation thereby posing serious problems for the legislature. The 1999 Constitution leave unanswered many critical national questions including acceptable revenue sharing formula among governmental structures, the Niger-Delta agitation, and security matters among other problems. Some of the areas of friction which the Constitution needs to address through its review are:

##### (b) Legislature-Executive Frictions

Part of the problems that affect democratic consolidation in Nigeria is the clash of leadership of the legislature and the executive over the interpretation of the Constitution relating to who holds the ultimate power. This is sheer personality or psychological struggle rather than constructive constitutional engagement. Both arms of government jettison constitutional arrangements to engage in supremacy battle thereby leaving the judiciary as the final arbiter in such instances. Such instances include the refusal by the executive to obey resolutions passed by the National Assembly; claiming that the executive have no constitutional obligation to comply with such resolutions instead claiming that the resolutions are mere advisory in nature which they are not bound to take. It is instructive to mention that Part 11, Section 4 of the 1999 Constitution expressly provides for the powers of the Federal Republic of Nigeria. With respect to the legislative powers, sub-section (1) provides that: 'The legislative powers of the federal republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.' By the same token Section 4(2) puts it that: 'The National Assembly shall have power to make laws for the peace, order and good government of the federation or any part thereof with respect to any matter included in the Executive list set out in Part 1 of the Second Schedule to the Constitution.' Chapter VI of the same Constitution provides for the creation of an executive branch whose responsibility it is to administer the affairs of the nation. With these provisions, there is no reason for any rift or friction between the legislature and the executive over the Constitution but for the interpretation and application of the provisions. The frictions between the legislature and the executive no doubt derail efforts of by the government in consolidating democracy in Nigeria.

##### (c) Impeachment and threats of Impeachment

A look at the relationship between the legislature and the Executive reveals that from 1999 to date, not less than 25 Speakers, 10 deputy speakers, 5 Governors, 10 deputy governors and two Senate presidents were impeached. Although, legislative officers have also been affected by the spate of impeachment in the Fourth Republic, the process was not completely devoid of executive manipulation. Again, this development derail efforts in consolidating democracy in Nigeria.

#### **4. Other Challenges of Consolidating Democracy in Nigeria**

The functions and expectations of the legislature are predicted on the assumption that legislators are competent, well-informed and painstaking. When legislators prove ineffective and passive, democracy flounders or falters. The effectiveness of the legislature generally emboldens the executive to exercise power without concern either for legislators or citizens. More important, legislators' ineffectiveness undermines the democratic consolidation and system of government. By all account, the National Assembly has played and continues to play a vital part in the nation's search for a durable democratic order. However, there are challenges to consolidating democracy in Nigeria. The other serious challenge to consolidating democracy in Nigeria is the nature of Nigerian Politics.<sup>32</sup> Politics in Nigeria has become a zero-sum game with attendant negative impact on the building of strong state institutions rising above parochial and selfish interests and capable of mediating conflicts among conflicting interests.<sup>33</sup> Thus state power in Nigeria has become a business venture and continues to be more rewarding than

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<sup>31</sup> Oputa JSC in *Godwin Josiah v The State* (1985) 1 SC 406

<sup>32</sup> Momoh, A. and Hundeyin, T., 'Nigeria's Political and Economic Crisis', in Anifowose, R, and Enemuoh, F.C., *Elements of Politics*, Lagos, (Malthouse Press Limited, 1999), 55

<sup>33</sup> Kurfi, Amadu, *Election Contest: Candidate's Companion*, Ibadan, (Spectrum Books Limited, 1989), 51

being in private business. This poses serious challenge to the consolidation of democracy and the democratization process and associated electoral processes that go with it.<sup>34</sup> It is for this reason that the former INEC Chairman Prof. Maurice Iwu asserts that any reform of the electoral process shall not be successful unless there is corresponding reform or change of the attitude by the political class.<sup>35</sup> He argues that the current rampaging primitive accumulation and the unrestrained deployment of such resources for the pursuit of state power negates the idea of electoral reform and democratic consolidation.<sup>36</sup>

The persisting recklessness of politicians and political parties which in the past, provided the excuses for military incursion, civil war and long years of military dictatorship in Nigeria, is largely responsible for the spate of inconclusive elections in Nigeria and which derail democratic consolidation.<sup>37</sup> Since the emergence of Nigeria's fourth republic in 1999, the political class has become more emboldened and desperate, playing foul to manipulate at all cost, the electoral process. INEC as Nigeria's electoral umpire bears alone, the irreparable indictment on its integrity when elections turn out inconclusive. Politicians often skew the narrative on elections with half-truths to mask their deadly intrigues employed to violate electoral process and by design, redefine 'successful' or conclusive election as one in which infractions are overlooked and tolerated to satisfy the quest for power by any dominant political faction. All these attitudes of politicians and political parties pose challenge to the consolidation of democracy in Nigeria. According to Ezilo inconclusive election is one of many cases of the weak institutional base of political parties and democratic consolidation in Nigeria.<sup>38</sup> Omotola asserts that Nigerian political parties are not organizational platforms for alternative views and programmes of governance and development but associations, factions, cliques, and networks for power and resource struggles, bereft of clear ideological identity and commitment, and issue based politics.<sup>39</sup> Nnoli stated that Nigerian Political parties have turned to money, identity, patronage and violence thereby derailing democratic consolidation.<sup>40</sup> Beyond ideology and programmes, perhaps with few exceptions, the performance of Nigerian political parties in terms of helping to deepen democracy, organization, function and management has been dismally poor.<sup>41</sup> It is therefore axiomatic to assert that the weak institutional base of Nigerian political parties could be linked to the incessant inconclusive elections in Nigeria. This sordid development no doubt affects progress on deepening and consolidating democracy in Nigeria.<sup>42</sup> Virtually every one familiar with elections in Nigeria will agree with the assessment provided by two scholars who note:

Nigeria is in the league of less successful countries in the areas of election management and outcomes: the electoral rules are either unclear, ever-changing, or easily subverted; the electoral body is structurally weak and perennially ineffective; the political actors and agencies are like gladiators in their conduct; while the people are often powerless in an environment of political and electoral misdemeanor. To use Claude Ake's words, 'voting does not amount to choosing in the Nigerian environment, as electoral choices are made by political party's barons outside the orbit of electoral norms, rules and procedures. In such circumstances, 'winners and losers have often been determined before the contest, and voters merely go through the charred of confirming choices already made'<sup>43</sup>

## 5. Conclusion and Recommendations

This brief has examined the issue of consolidating democracy in Nigeria through the roles of the legislature and the judiciary under the 1999 Constitution. It highlighted some challenges and suggested the way forward. The brief found that the government had since 1960 tried to consolidate democracy through both legislative and judicial means. Some laws have been made that prohibit anti-democratic behaviours, protect the right of citizens provide for welfare of the citizens and promote democracy. In all, the 1999 Constitution (as altered) sets the

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<sup>34</sup> Anyaegbulam, E.O., (n 7) 125

<sup>35</sup> Iwu, M., *Electoral Process and Democracy in Nigeria*, Paper Present at the Conference on Consolidating Democracy in Nigeria, Abuja, 2011

<sup>36</sup> Ibid.

<sup>37</sup> Omotola, J.S., 'Nigerian Political Parties and Political Ideology' [2009], *Journal of Alternative Perspectives in the Social Sciences* (vol. 1 No.3), 612-634

<sup>38</sup> Ezilo Joy and Nnaemeka Obinna (eds.), *Engineering Human Rights: Cultural and Socio-Economic Realities in Africa*, New York, (Palgrave Macmillan, 2005), 12

<sup>39</sup> Omotola, J. S., 'Nigerian Political Parties and Political Ideology', [2009], *Journal of Alternative Perspectives in the Social Sciences* (vol.1, No.3), 612-634

<sup>40</sup> Nnoli, Okwudibia, *Ethnic Politics in Nigeria*, Enugu, (Fourth Dimension Publishers Company Ltd), 1980, 183

<sup>41</sup> See Nwosu, Humphrey, *Laying the Foundation for Nigeria's Democracy: My Account of June 12, 1993 Presidential Election and its Annulment*, Lagos, (Page Publishing Inc., 2008 (2017 ed.))

<sup>42</sup> Omotola, J.S., (n 25), 731

<sup>43</sup> Adigun Agbaje & Said Adejumo, Do Votes Count?, *The Travails of Electoral Politics in Nigeria*, [2006], *African Development*, (vol. 31 no 3)

agenda for consolidating democracy by providing the powers of the legislature and the judiciary in this respect. In examining the roles of the legislature and the judiciary in consolidating democracy, the brief discovered that despite significant efforts of the legislature and the judiciary in consolidating democracy in Nigeria, some challenges do still exist. The judiciary though the last hope for survival of democracy is the weakest of the three arms of government with the greatest challenge. Perhaps it is in this respect that Alexander Hamilton writing during the ratification debates of the adoption of the American Constitution maintained that despite the power of judicial review, the judiciary would be the weakest of the three branches of government, because it lacked 'the strength of the sword or the purse.' The judiciary, wrote Hamilton, had 'neither FORCE nor WILL, but only judgment.'<sup>44</sup> Although Hamilton was defending the legislature as being supreme in consolidating democracy, he argued that judicial review of legislative and executive actions by the judiciary is central to consolidating democracy. In view of some of the challenges identified, amendment of the laws enacted since the inception of the Fourth Republic is necessary and periodic alteration of the Constitution is equally necessary. The legislature should equally do a periodic review of its Rules for ease of passage of Bills into law and avoid technical hitches that delay proceedings. To effectively consolidate democracy in Nigeria, the legislature has to enact laws for public control mechanisms for public institutions. That is, control mechanisms that include institutional checks and balances, free and fair election, human rights protection and accountability mechanisms. To do this effectively, the legislature should always invoke its powers under section 4 (2) of the 1999 Constitution which provides: 'The National Assembly shall have power to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List set out in Part 1 of the Second Schedule to this Constitution'. All laws passed should in all cases not be in conflict with the provisions of the 1999 Constitution (as altered). In this case, the judiciary by invoking its powers under section 6 of the 1999 Constitution should be courageous enough to void such laws as was the case in some of the cases cited above. Again, to effectively consolidate democracy in Nigeria the legislature and the judiciary should in all cases respond to the public demand for transparency, accountability and openness of the public officers who run the affairs of government. Above all, the legislature and the Judiciary should base their actions towards consolidating democracy on sections 14 and 15 of the 1999 Constitution which provide that: 14 (1) The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice; and 15 (1) that: The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress. With these provisions of the Constitution in the minds of the legislature and the Judiciary, the quest for consolidating democracy in Nigeria would be realizable. The problem of conflicting judgments of courts does not speak well of the judiciary and this may one way or the other affects the desire of consolidating democracy. In this respect it is advised that the courts should adhere to the principle of obeying the decisions of superior courts by what in the legal palace lawyers call the doctrine of *stare decisis*.

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<sup>44</sup> Kenneth, Janda, Jeffrey M. Berry, and Jerry Goldman, *The Challenge of Democracy*, Boston, New York, (Houghton Mifflin Company), 1999, 447