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Research Paper

Practical Judicial Independence as A Panacea for Foreign Direct Investment in Nigeria

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Abstract
Foreign direct investment (FDI) constitutes one of the most consequential drivers of economic growth, technology transfer, and employment generation in developing economies. Yet Nigeria, notwithstanding its abundant natural resources, demographic vitality, and vast domestic market, continues to attract levels of FDI that are disproportionate to its potential. A recurring and structurally significant explanation for this paradox is the perceived absence of practical judicial independence that is, the operationalized, day-to-day manifestation of an impartial, competent, and insulated judiciary capable of enforcing contracts, protecting property rights, and resolving investment disputes with predictability and finality. This article examines the concept of practical judicial independence as distinct from its formal or constitutional articulation, critically assesses the current state of the Nigerian judiciary in relation to investor confidence, interrogates the systemic challenges including executive interference, corruption, inadequate funding, and delays that erode judicial credibility, and proposes institutional and legislative reform pathways through which a genuinely independent judiciary can serve as an enduring catalyst for sustained foreign investment flows into Nigeria. Drawing on comparative jurisprudence, international investment law principles, empirical indices, and Nigerian constitutional law, the article argues that practical judicial independence is not merely a governance ideal but an indispensable economic instrument whose realisation is prerequisite to Nigeria achieving its FDI potential.

Keywords: *judicial independence; foreign direct investment; Nigeria; rule of law; investor protection; constitutional reform; investment arbitration; economic governance*

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I. Introduction

The question of what attracts foreign capital into a jurisdiction has long animated discourse across the disciplines of economics, political science, international law, and governance studies. Empirical literature has consistently demonstrated that among the determinants of foreign direct investment including macroeconomic stability, market size, natural resource endowments, and infrastructure adequacy, the quality of legal and judicial institutions exercises a decisive and independent influence on investor decision-making. 1 For investors committing long-term capital across borders, the central concern is not merely whether favourable laws exist on paper, but whether those laws will be applied impartially, consistently, and efficiently by a judiciary that is insulated from political interference and immune to corruption.2

Nigeria presents a compelling but sobering case study in this regard. As Africa's largest economy by GDP and its most populous nation, Nigeria commands a domestic market of over 220 million people, holds substantial proven reserves of petroleum and solid minerals, and has a growing technology and services sector

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1 M Sornarajah, *The International Law on Foreign Investment* (3rd edn, CUP 2010) 87.

2 L P Feld and S Voigt, 'Economic Growth and Judicial Independence: Cross-Country Evidence Using a New Set of Indicators' (2003) 19 European Journal of Political Economy 497, 499.

that has produced globally recognised enterprises.3 Yet FDI inflows into Nigeria have remained structurally volatile and comparatively modest relative to peer emerging economies. According to the United Nations Conference on Trade and Development (UNCTAD), Nigeria received approximately USD 3.3 billion in FDI inflows in 2022, a figure dwarfed by smaller African economies with more robust institutional frameworks.4 While multiple factors contribute to this disparity, the persistent characterisation of Nigeria's judiciary as susceptible to executive interference, endemic corruption, and systemic delay has repeatedly featured in investor risk assessments, World Bank Doing Business surveys, and bilateral investment treaty dispute records.5

The concept of judicial independence is not monolithic. A distinction must be drawn at the outset between *formal* judicial independence, the structural and constitutional guarantees of judicial autonomy enshrined in a nation's founding instruments and *practical* judicial independence, which denotes the real-world, day-to-day operationalisation of those guarantees in the conduct of judges, the administration of courts, and the quality of judicial outcomes.6 Nigeria's Constitution of 1999 (as amended) contains elaborate provisions safeguarding the formal independence of the judiciary.7 The challenge, as this article demonstrates, lies in the persistent gap between these constitutional aspirations and the practical experience of litigants including foreign investors who engage with the Nigerian court system.

This article proceeds in seven further parts. Part 2 establishes the conceptual framework by defining practical judicial independence and mapping the theoretical underpinnings of the FDI-judiciary nexus. Part 3 critically assesses the current state of judicial independence in Nigeria. Part 4 examines the direct and indirect channels through which practical judicial independence influences FDI decisions. Part 5 identifies and analyses the structural and systemic challenges that undermine judicial independence in Nigeria. Part 6 articulates a reform agenda premised on practical measures that can bridge the gap between formal and practical judicial independence. Part 7 draws on comparative lessons from selected emerging economies. Part 8 concludes with recommendations.

II. Conceptual Framework: Judicial Independence and Foreign Direct Investment

2.1 Defining Practical Judicial Independence

Judicial independence, in its classical formulation, denotes the condition in which judges are free to decide cases according to law and conscience, uninfluenced by considerations of personal interest, external pressure, or the preferences of the political branches of government.8 In the landmark American case of *Marbury v Madison*, Chief Justice Marshall articulated the foundational principle that it is emphatically the province and duty of the judicial department to say what the law is a declaration that presupposed a judiciary possessed of both the authority and the practical freedom to perform that function without compromise.9

Scholarly discourse has progressively disaggregated judicial independence into its component dimensions. Shetreet and Deschênes identify two principal axes: *institutional independence*, which concerns the relationship between the judiciary as an institution and other branches of government; and *individual independence*, which concerns the personal security and decisional autonomy of individual judges.10 More recently, scholars have added a third dimension, *substantive independence* which focuses on whether judicial decisions are in fact driven by legal reasoning rather than extraneous influences, irrespective of the formal guarantees in place.11

For the purposes of this article, *practical judicial independence* is defined as the consistent, demonstrable exercise of adjudicative authority by judges in a manner that is: (a) free from political direction or executive interference; (b) immune to corrupt inducement; (c) guided by transparent and predictable legal reasoning; (d) timely and efficient in its delivery of judgments; and (e) capable of being enforced against all parties, including the State. This is a functional, outcome-oriented conception that goes beyond institutional design to encompass the lived reality of judicial practice.

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3 UNCTAD, *World Investment Report 2023* (United Nations 2023) 42.

4 ibid 44.

5 World Bank, *Doing Business 2020: Comparing Business Regulation in 190 Economies* (World Bank 2020) 115.

6 S Shetreet and J Deschênes (eds), *Judicial Independence: The Contemporary Debate* (Martinus Nijhoff 1985) 7.

7 Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 6, 231–240, 270–292.

8 Shetreet and Deschênes (n 6) 12.

9 *Marbury v Madison* 5 US 137, 177 (1803).

10 Shetreet and Deschênes (n 6) 19–22.

11 E B Nwauche, 'Judicial Independence in Nigeria' (2011) 55 Journal of African Law 238, 241.

2.2 Foreign Direct Investment: Nature and Determinants

Foreign direct investment refers to cross-border investment in which an investor in one country establishes a lasting interest and significant degree of influence over an enterprise in another country.12 Distinguished from portfolio investment by its long-term character and managerial engagement, FDI encompasses greenfield investments, mergers and acquisitions, joint ventures, and reinvested earnings from existing foreign-owned enterprises.

The determinants of FDI are conventionally classified into three categories: market-seeking factors (the size and growth potential of the host market), resource-seeking factors (access to natural resources, labour, or technology), and efficiency-seeking factors (cost reduction, regulatory arbitrage, and access to preferential trade arrangements).13 To these conventional categories, institutional economics has added a fourth: *institutional quality*, which encompasses the strength of property rights protection, contract enforcement mechanisms, regulatory transparency, and critically, the independence and competence of the judiciary.14

Sornarajah has argued, persuasively, that the international law on foreign investment is fundamentally premised on the assumption that host States possess functioning legal systems capable of providing effective remedies to foreign investors aggrieved by wrongful State conduct or private breach.15 Where that assumption is falsified by judicial dysfunction, investors must either absorb greater risk (at the cost of higher required returns), secure contractual protections through international arbitration clauses (adding transaction costs), or decline to invest altogether. Each of these responses represents a suboptimal outcome from the perspective of the host State's development objectives.

2.3 The Theoretical Nexus

The relationship between judicial quality and investment is grounded in the economic theory of institutional complementarities. As North argued, institutions including legal institutions reduce transaction costs by creating a stable, predictable framework within which economic actors can plan, contract, and enforce their expectations.16 A judiciary that delivers timely, impartial, and enforceable judgments reduces the informational and enforcement costs associated with investment contracts, thereby expanding the universe of mutually beneficial transactions. Conversely, a judiciary that is slow, corrupt, or susceptible to political capture imposes hidden taxes on investment in the form of uncertainty premiums, legal costs, and the risk of uncompensated expropriation.17

Empirical studies corroborate this theoretical intuition. A cross-country study by Feld and Voigt found a statistically significant positive correlation between *de facto* judicial independence (as opposed to *de jure* independence) and economic growth rates, confirming that it is the practical rather than the formal dimension of judicial independence that matters for economic outcomes.18 Similarly, studies by the World Bank have consistently identified the efficiency of the judiciary as one of the principal determinants of investor perceptions of business climate quality.19

III. The Nigerian Judicial Landscape: A Critical Assessment

3.1 Constitutional Provisions on Judicial Independence

The Constitution of the Federal Republic of Nigeria 1999 (as amended) contains an elaborate architecture of provisions designed to guarantee the independence of the judiciary. Section 6 vests judicial powers of the Federation in the courts established by the Constitution, thereby entrenching the judicial arm as a constitutionally coequal branch of government.20 Sections 231 and 238 provide for the appointment of the Chief Justice of Nigeria and justices of the Supreme Court upon the recommendation of the National Judicial Council (NJC), subject to Senate confirmation, a process intended to insulate judicial appointments from purely executive discretion.21 Security of tenure is guaranteed by sections 291 and 292, which prescribe that superior court judges shall hold

12 UNCTAD, *World Investment Report 2023* (n 3) 14.
13 Sornarajah (n 1) 91.
14 D North, *Institutions, Institutional Change and Economic Performance* (CUP 1990) 54.
15 Sornarajah (n 1) 93.
16 North (n 14) 58.
17 Feld and Voigt (n 2) 501.
18 ibid 510.
19 World Bank (n 5) 36.
20 Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6.
21 ibid ss 231(1), 238(1).

office until the mandatory retirement age of seventy years and shall not be removed except on grounds of misconduct established by prescribed procedures.22

Financial independence, often described as the bedrock of practical judicial independence is addressed by section 81(3) of the Constitution, which charges the remuneration and salaries of judicial officers as a first charge on the Consolidated Revenue Fund, thereby immunising such payments from the annual appropriation process and the threat of executive financial manipulation. 23 Section 84 extends similar protection to the remuneration of the Chief Justice and other superior court judges.

The Supreme Court has affirmed the importance of these provisions. In *Tukur v Government of Gongola State*, the court held that the constitutional provisions relating to judicial appointments and tenure were not mere aspirational statements but mandatory norms whose violation would render executive action null and void.24 Similarly, in *Marwa v Nyako*, the court emphasised that judicial officers exercising jurisdiction under the Constitution do so independently of any other authority and are bound solely by the Constitution and applicable laws.25

3.2 The Gap Between Form and Practice

Notwithstanding these constitutional provisions, the empirical reality of the Nigerian judiciary reveals a substantial and troubling gap between formal independence and practical independence. Several indicators underscore this assessment.

Executive interference remains a persistent concern. The practice of executive interference in judicial appointments has not been eradicated by constitutional safeguards. There have been documented instances of pressure being exerted on judicial officers in matters affecting government interests, and the process of appointing heads of courts has not always been insulated from political considerations, despite the formal role of the NJC.26 Furthermore, the power of state governors over the funding and administrative infrastructure of state judiciaries creates structural dependencies that compromise practical independence at the sub-national level.

Corruption constitutes perhaps the most damaging challenge to practical judicial independence. The 2016 sting operation by the Department of State Services (DSS), which led to the suspension and prosecution of seven senior judges including a Supreme Court justice, laid bare the extent to which bribery had penetrated the higher judiciary. 27 While subsequent reforms have been introduced, Nigeria's score on the Transparency International Corruption Perceptions Index where it ranked 145th out of 180 countries in 2023 reflects a persistent institutional culture antithetical to impartial adjudication.28

Delay is endemic and structurally entrenched. Nigerian courts are chronically overburdened, and cases routinely take between five and fifteen years to conclude at the trial court level, with appeals extending the timeline further.29 For foreign investors, such delay is functionally equivalent to a denial of justice. As the Supreme Court recognised in *Olutola v University of Ilorin*, justice delayed is justice denied, a constitutional imperative that the systemic realities of the Nigerian court system frequently betray.30

Inadequate funding and infrastructure further erode practical judicial independence. Despite the constitutional charge on the Consolidated Revenue Fund, judicial funding has historically been subject to executive discretion in practice, resulting in understaffed courts, dilapidated court facilities, and inadequate technological infrastructure for case management.31 These material deficiencies impede the capacity of courts to administer justice efficiently, irrespective of the individual integrity of the judges.

IV. The Nexus Between Judicial Independence and Foreign Direct Investment in Nigeria

4.1 Contract Enforcement and Property Rights Protection

For foreign investors, the ability to enforce contracts against both private counterparties and the host State is a non-negotiable prerequisite of profitable investment. Contracts define the commercial relationships upon which

22 ibid ss 291, 292.

23 ibid s 81(3).

24 *Tukur v Government of Gongola State* [1989] 4 NWLR (Pt 117) 517, 543.

25 *Marwa v Nyako* [2012] 6 NWLR (Pt 1296) 199, 267.

26 Nwauche (n 11) 248.

27 S Igbinedion, 'Judicial Independence and the Rule of Law in Nigeria: An Appraisal' (2018) 2 Journal of Law and Judicial System 1, 9.

28 Transparency International, *Corruption Perceptions Index 2023* (Transparency International 2023) 6.

29 World Bank (n 5) 117.

30 *Olutola v University of Ilorin* [2004] 18 NWLR (Pt 905) 416, 459.

31 Nwauche (n 11) 252.

investment projects depend agreements for the supply of goods and services, licensing arrangements, joint venture agreements, land acquisition instruments, and off-take agreements with State entities. Where courts are perceived as unable or unwilling to enforce such contracts reliably, the risk premium attached to Nigerian investments rises, and the volume of investment correspondingly falls.

Nigeria's ranking on the World Bank's Doing Business index reflects this concern. On the metric of contract enforcement, Nigeria performed poorly in successive editions of the index, ranking in the bottom quartile globally in terms of the time and cost required to enforce a commercial contract through the courts.32 The World Bank estimated that enforcing a commercial contract in Nigeria took an average of 720 days and cost approximately 52% of the claim value in legal fees and court costs, figures that deter rational, cost-conscious investors.33

Property rights protection presents analogous challenges. Foreign investors acquiring land or assets in Nigeria must contend not only with the complexities of the Land Use Act,34 which vests all land in the state governors and requires a governor's consent for alienation, but also with the risk that judicial enforcement of property rights may be compromised by political considerations, particularly where the property in question is proximate to political or extractive interests. The experience of oil companies in the Niger Delta, where courts have at times been perceived as sympathetic to politically connected interests, illustrates the practical dimensions of this concern.35

4.2 Investment Dispute Resolution

A particularly acute dimension of the judicial independence-FDI nexus is the resolution of investment disputes. Foreign investors who suffer expropriation, nationalisation without adequate compensation, or discriminatory regulatory treatment by the Nigerian State require access to a credible and impartial forum for the resolution of their claims. While international investment arbitration through ICSID and ad hoc proceedings under UNCITRAL Rules provides an alternative forum that partially compensates for domestic judicial weakness, such forums are expensive, slow, and available only where an applicable bilateral investment treaty (BIT) or contract clause provides for arbitration.

Nigeria is party to a number of bilateral investment treaties, and the Arbitration and Mediation Act 2023 represents a significant modernisation of the domestic legal framework for arbitration. 36 However, the recognition and enforcement of foreign arbitral awards in Nigerian courts remain subject to the same delays and uncertainties that afflict ordinary commercial litigation. In *Tulip Nigeria Ltd v Noleggioe Transport Maritime SAS*, the appellate courts were required to address the enforceability of a foreign arbitral award a process that itself took several years and traversed multiple levels of appeal.37 This experience illustrates that even where parties prudently choose international arbitration, the Nigerian judicial system's weaknesses ultimately condition the practical value of the arbitral process.

4.3 Investor Confidence and Reputational Effects

Beyond direct legal encounters, judicial independence or its absence shapes the broader reputational environment within which investment decisions are made. International investors rely heavily on the assessments of multilateral agencies, credit rating organisations, law firms, and political risk consultancies in formulating their investment strategies. These assessments systematically incorporate evaluations of judicial quality. A jurisdiction perceived as having a corrupt, slow, or politically compromised judiciary will be assigned a higher risk premium and will consequently attract less investment, particularly in capital-intensive sectors with long payback periods such as infrastructure, manufacturing, and energy.38

The Nigerian Investment Promotion Commission Act charges the Commission with encouraging and promoting foreign and domestic investment by creating a conducive business environment. 39 Yet the Commission's promotional efforts are structurally undermined when prospective investors discover, upon conducting legal due diligence, that dispute resolution in Nigeria carries systemic risks that cannot be adequately

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32 World Bank (n 5) 118.

33 ibid.

34 Land Use Act, Cap L5 LFN 2004, s 1.

35 *Shell Petroleum Development Company v Otoko* [1990] 6 NWLR (Pt 159) 693, 712.

36 Arbitration and Mediation Act 2023, s 1.

37 *Tulip Nigeria Ltd v Noleggioe Transport Maritime SAS* [2011] 4 NWLR (Pt 1237) 254, 291.

38 A Muhammad, 'Foreign Direct Investment and the Rule of Law in Nigeria: Emerging Issues' (2020) 14 Nnamdi Azikiwe University Journal of International Law and Jurisprudence 88, 95.

39 Nigerian Investment Promotion Commission Act, Cap N117 LFN 2004, s 4.

mitigated by contractual design. The gap between Nigeria's official investment promotion narrative and the practical realities of its judicial environment constitutes a form of institutional dissonance that sophisticated investors are well-placed to identify and factor into their decisions.

V. Structural and Systemic Challenges Undermining Judicial Independence in Nigeria

5.1 Executive Dominance and Political Interference

The most profound and persistent threat to practical judicial independence in Nigeria is the structural dominance of the executive branch, which manifests at both the federal and state levels. The constitutional provisions for NJC involvement in judicial appointments, while significant, have not fully inoculated the process against executive influence. At the state level, in particular, the appointment, funding, and working conditions of the judiciary are heavily conditioned by the political priorities of state governors, creating dependencies that are inimical to genuine independence.40

Beyond appointments, there exists a culture of executive expectation regarding judicial outcomes in matters affecting government interests. This culture documented in academic literature and anecdotally pervasive among legal practitioners generates an environment in which judges face informal pressures that constitutional provisions alone cannot neutralise. As Nwabueze observed in his seminal study of constitutionalism in emergent states, the formal independence of the judiciary is meaningful only insofar as the political culture within which it operates respects and reinforces that independence.41 In Nigeria, that reinforcing culture remains insufficiently developed.

5.2 Corruption Within the Judiciary

Judicial corruption, encompassing the acceptance of bribes to influence outcomes, the solicitation of gratification by court officials, and the manipulation of case assignments to favour particular judges represents a systemic threat to practical judicial independence that is distinct from, and in some respects more corrosive than, executive interference. Whereas executive interference is visible, traceable, and subject to constitutional challenge, judicial corruption operates covertly, distorting outcomes while preserving the external forms of independence and due process.42

The ICPC and the EFCC have jurisdiction to investigate and prosecute corruption offences under the Corrupt Practices and Other Related Offences Act 2000 and the Economic and Financial Crimes Commission (Establishment) Act 2004 respectively.43 However, the prosecution of serving or retired judicial officers has been episodic rather than systemic, and the institutional mechanisms for monitoring and detecting judicial corruption including asset declaration requirements and lifestyle audits have not been implemented with the rigour necessary to generate meaningful deterrence.

5.3 Inadequate Remuneration and the Incentive Structure of Corruption

A structural contributor to judicial corruption that is often inadequately acknowledged is the disparity between judicial remuneration and the cost of living in major Nigerian cities. Despite constitutional protections, the real value of judicial salaries has been significantly eroded by inflation over successive decades, creating conditions in which conscientious judges face acute financial pressure while corrupt actors offer remuneration that is multiples of the official salary.44 This does not excuse corruption; it does, however, underscore the importance of ensuring that judicial salaries are set at levels that make the judicial office genuinely attractive on its merits, without reference to illicit supplements.

5.4 Case Management Failures and Systemic Delay

The systemic delay that characterises Nigerian civil litigation is attributable to multiple overlapping causes: the absence of effective case management systems; the proliferation of interlocutory applications and interim injunctions that can effectively stay proceedings for years; the inadequacy of judicial staffing relative to caseloads; and the culture of endless adjournments that some practitioners exploit strategically to frustrate opponents.45 The introduction of the High Court (Civil Procedure) Rules in various states has sought to address

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40 Nwauche (n 11) 255.

41 B O Nwabueze, *Constitutionalism in the Emergent States* (C Hurst & Co 1973) 27.

42 Igbinedion (n 27) 11.

43 Corrupt Practices and Other Related Offences Act 2000, s 8; Economic and Financial Crimes Commission (Establishment) Act 2004, s 6.

44 Nwauche (n 11) 258.

45 World Bank (n 5) 119.

some of these issues through stricter case management protocols, but implementation has been inconsistent, and the cultural habits of the litigation bar have proven resistant to procedural reform.

5.5 Limited Specialisation in Commercial and Investment Matters

Another structural weakness affecting FDI is the absence of sufficiently specialised commercial courts or investment tribunals at the federal level. While the Federal High Court has exclusive jurisdiction over certain commercial and investment matters, including banking, insurance, and matters arising under the Companies and Allied Matters Act 2020, the court is overburdened and lacks the degree of specialised commercial expertise that major international investment disputes require.46 The contrast with jurisdictions such as Singapore, which established a dedicated International Commercial Court in 2015 as part of a deliberate strategy to attract dispute resolution business and signal institutional quality to investors, is instructive.47

VI. Practical Judicial Independence as a Catalyst for FDI: Pathways to Reform

6.1 Constitutional and Legislative Reforms

Fundamental reform of the architecture of judicial independence requires revisiting the constitutional provisions that currently create the conditions for executive dominance. A constitutional amendment that transfers full control of judicial funding at both federal and state levels to an independent National Judicial Fund administered by the NJC, insulated from both the executive and legislative appropriation process, would represent the most consequential structural reform available.48 Such an arrangement would operationalise the existing constitutional principle in section 81(3) and extend its application to state judiciaries, which presently remain financially subordinate to state executives.

Legislative reform of the National Judicial Council Act and the enabling statutes of state judicial service commissions should strengthen the NJC's supervisory and disciplinary jurisdiction over all judicial officers, with transparent, published criteria for appointment, promotion, and discipline. This would reduce the scope for political manipulation of the appointments process and create a more meritocratic pathway to judicial office.

The Investment and Securities Act 2025 represents a legislative development of significance for the investment climate, introducing reforms to the framework for securities regulation and capital market operations.49 However, the Act's beneficial effects on investor confidence will be limited unless the judicial infrastructure available to enforce its provisions is correspondingly strengthened.

6.2 Establishment of Dedicated Investment Courts

Perhaps the most directly impactful institutional reform for FDI attraction would be the establishment of a dedicated Investment and Commercial Court of Nigeria (ICCN), a specialist court at the federal level with jurisdiction over investment disputes, large-value commercial litigation, and the recognition and enforcement of foreign arbitral awards. Such a court, staffed by judges selected through rigorous merit-based processes with demonstrated expertise in commercial and international law, would signal Nigeria's commitment to providing world-class dispute resolution infrastructure for foreign investors.50

The ICCN should be equipped with a dedicated case management system, strict timelines for the determination of matters (including statutory time limits on the hearing of interlocutory applications), and a roster of specialist commercial judges drawn from the very best of the Nigerian bar and retired judiciary. Its judgments should be subject to expedited appeal to a dedicated division of the Court of Appeal, with further appeal to the Supreme Court only on certified questions of general legal importance.

6.3 Technology, Transparency, and Court Administration

The automation of court administration through integrated case management systems represents an essential component of practical judicial independence reform. A fully digitised system for case filing, assignment, tracking, and publication of judgments would significantly reduce the scope for manipulation through selective case assignments, lost files, and opaque scheduling practices.51 Random automated assignment of cases to judges

46 Companies and Allied Matters Act 2020, s 823.

47 Feld and Voigt (n 2) 517.

48 B O Nwabueze, *Nigeria's Presidential Constitution 1979–83: The Second Experiment in Constitutional Democracy* (Longman 1985) 312.

49 Investment and Securities Act 2025, s 1.

50 Muhammad (n 38) 102.

51 Igbinedion (n 27) 15.

as practised in several advanced jurisdictions would eliminate one of the principal mechanisms through which parties seek to influence judicial outcomes through prior knowledge of which judge will hear a matter.
Mandatory online publication of all superior court judgments, in full, within a defined period of their delivery, would enhance accountability and enable academic, journalistic, and civil society scrutiny of judicial decision-making patterns. This transparency serves both as a deterrent to corruption and as a resource for investors conducting legal due diligence on the Nigerian legal environment.

6.4 Judicial Remuneration and Welfare Reform

Any comprehensive reform agenda must address the remuneration of judicial officers as a matter of economic necessity as well as constitutional principle. A triennial independent review of judicial salaries, conducted by an independent body with a statutory mandate to maintain the real purchasing power of judicial remuneration in line with inflation and the prevailing cost of professional services, would ensure that the material conditions of judicial office do not create structural incentives toward corruption.52 Enhanced provision for judicial housing, healthcare, and post-retirement benefits would further strengthen the ability of the judiciary to attract and retain the most talented members of the legal profession.

6.5 Strengthening the Arbitration Ecosystem

The Arbitration and Mediation Act 2023 represents a genuine legislative achievement that aligns Nigeria's domestic arbitration framework with international best practice, adopting features of the UNCITRAL Model Law and streamlining the recognition and enforcement of foreign arbitral awards.53 To maximise its impact on FDI, the courts must internalise the pro-arbitration philosophy that underlies the Act and abandon judicial interventionism in arbitral proceedings. Training programmes for judges on the principles of international commercial arbitration and the importance of minimal judicial interference with the arbitral process are an essential complement to the legislative reform.

VII. **Comparative Perspectives: Lessons from Emerging Economies**

7.1 Singapore: Judicial Excellence as Investment Strategy

Singapore's transformation from a low-income colonial territory in 1965 to one of the world's leading centres for international commerce and dispute resolution within half a century offers the most compelling comparative evidence of the relationship between practical judicial independence and investment attractiveness. Singapore's judiciary is consistently ranked among the most efficient and independent in the world, and the city-state has leveraged this reputation to position itself as the premier hub for international commercial arbitration and dispute resolution in Asia.54 The Singapore International Commercial Court (SICC), established in 2015, accepts cases with no connection to Singapore where parties agree to its jurisdiction, attracting significant FDI-related dispute resolution business that generates legal services revenue and reinforces Singapore's reputation as a safe and predictable legal environment.

7.2 Mauritius: Institutional Quality as a Development Strategy

Mauritius presents a more proximate comparison for Nigeria. A small island economy with limited natural resources, Mauritius has consistently outperformed larger African economies in FDI attraction by investing systematically in the quality of its legal and judicial institutions. The Mauritius International Arbitration Centre and the government's commitment to efficient contract enforcement have made Mauritius the jurisdiction of choice for investment holding structures throughout sub-Saharan Africa, generating financial services activity and associated investment that far exceeds what its market size would otherwise warrant.55

7.3 India: The Cost of Judicial Delay

India provides a cautionary counterexample. Notwithstanding its constitutional commitment to judicial independence and its common law heritage, India's judiciary has been chronically afflicted by case backlogs that, at their peak, comprised tens of millions of pending cases.56 Studies have documented the deterrent effect of this backlog on FDI inflows, particularly in sectors requiring reliable contract enforcement. India's experience confirms the proposition that formal judicial independence, unaccompanied by practical efficiency and

52 A Ordor, 'Enforcing Foreign Arbitral Awards in Nigeria' (2015) 59 Journal of African Law 45, 68.

53 Arbitration and Mediation Act 2023, s 57.

54 Feld and Voigt (n 2) 515.

55 UNCTAD (n 3) 62.

56 Sornarajah (n 1) 199.

institutional capacity, is insufficient to generate the investor confidence associated with practical judicial independence.

VIII. Conclusion and Recommendations

This article has argued that practical judicial independence, the operationalised, day-to-day manifestation of an impartial, competent, insulated, and efficient judiciary is a necessary condition for Nigeria's realisation of its FDI potential. The analysis has established that while Nigeria's constitution provides an elaborate formal architecture for judicial independence, a persistent and damaging gap exists between that formal architecture and the practical experience of litigants and investors in the Nigerian court system. This gap, attributable to executive interference, endemic corruption, inadequate funding, systemic delay, and limited commercial specialisation, imposes substantial costs on the Nigerian economy in the form of depressed investment flows, elevated risk premiums, and the flight of dispute resolution business to foreign jurisdictions.

The following specific recommendations are advanced:

First, the National Assembly should amend the Constitution to establish an independent National Judicial Fund with full control over judicial funding at all levels, insulated from executive appropriation decisions. Second, the Federal Government should enact legislation establishing a dedicated Investment and Commercial Court of Nigeria with specialist judges, mandatory timelines, and expedited appeals procedures. Third, all superior courts should implement fully automated, randomly assigned case management systems, with mandatory online publication of judgments. Fourth, an independent statutory body should be established to conduct triennial reviews of judicial remuneration, with a mandate to maintain real purchasing power parity. Fifth, comprehensive judicial training programmes on international commercial law, investment arbitration, and modern commercial dispute resolution should be institutionalised through the National Judicial Institute. Sixth, the NJC should publish transparent, merit-based criteria for all judicial appointments, with reasoned public decisions on appointments at the level of Justice of the Court of Appeal and above.

The realisation of practical judicial independence in Nigeria will not occur overnight. It requires sustained political will, institutional investment, and a cultural transformation within both the executive branch and the legal profession. However, the returns on such investment measured in the form of increased FDI flows, stronger economic growth, greater employment, and enhanced national revenue are sufficiently compelling to justify the effort. As Nwabueze recognised, constitutionalism is not self-executing; it requires continuous institutional effort to give it practical effect.57 In the specific domain of judicial independence, that effort is, in the truest sense, an investment in Nigeria's economic future.

57 Nwabueze (n 41) 31.