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From Sovereign Immunity to Constitutional Immunity in Nigeria: Reappraising the Gains and Pitfalls

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Abstract

Recently, Prince Harry (Prince Henry Charles Albert David) the Duke of Sussex, testified in a London court that his life has been blighted by intrusion from Britain's tabloid press, marking the first time in more than 130 years that a member of the royal family has given evidence at trial. The prince, who has consistently refused to settle long standing hacking claims where others have, appeared at the High Court in a highly anticipated civil lawsuit against MGN Ltd., the publishers of the newspapers the Daily Mirror, the Sunday Mirror and The Sunday People. This calls for an inquisition on the controversies surrounding the Immunity privileges enjoyed by Royals which Nigeria had adopted in its Section 308 of the 1999 Constitution. Despite its antiquated feudal origins, the doctrine of immunity has continued to find relevance even in the most modern republican states. There has however been a striking change in the content of justifications often advanced for it. At the beginning, it was simply assumed that the king of England could do no wrong. Thus, an action against His majesty was out of the question; more so where the venue for adjudication was the king's court and the presiding judge was the king himself or one of the courtiers. In addition to this quaint rationalization, the king had the full status of a sovereign, approximating the state all by himself. The perceived impossibility of subjecting a sovereign state to legal action found expression in the phrase "sovereign immunity". In Nigeria the Constitution of the Federal Republic of Nigeria in its section 308 provide for executive immunity on specified public officers viz: The president, Vice President, Governors and Deputy Governors. I submit that the immunity clause is not founded in an expressed lack of confidence in the courts to dispense justice, but in political expediency. The drafters of the 1999 Constitution neither thought the executives infallible nor did they want to offer them a gratuitous escape from the law. This is why the immunity granted the Executive is not absolute as there are limitations. Among other provisions cited, the law provides that the executives can be sued in their nominal capacities, and in a special tribunal for complaints arising from electoral matters. Also, they could be sued after their tenure of offices. Moreover, under the doctrine of the separation of powers, the actions of the president and governors are closely monitored through the oversight functions of the legislative arm of government and equally subject to judicial review.

Keywords: *Sovereign immunity, constitutional immunity.*

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Introduction

Sovereign Immunity in Britain.

The doctrine of sovereign immunity in Britain originated from the old feudal structure of English society. The doctrine was greatly enhanced by the monarchical institutions that were in existence in Britain. From the late Victorian era, the monarchy remains an important factor cementing the British Empire and also that of the commonwealth. Since he is the fountain of justice, the courts being his courts or her courts, and justice administered in his or her name, it would be a manifest absurdity if he were to be tried by his own courts. This would mean that he is above the law. The maxim, 'The King can do no wrong' simply meant that his misdeeds are not cognizable by the courts. The only redress against an erring king is to force him to abdicate, go on exile or to have him impeached and dethroned, but not to put him on trial in his own courts. The doctrine which was criticized by sir Edward Coke, has been described variously as unjust, unsatisfactory and in some quarters as an archaic anachronistic legal phraseology and legal fiction. Professor Jaffe argues that the immunity of the sovereign from suit and his capacity or incapacity to violate the law are distinct and independent concepts, as the grant of consent is based precisely upon the proposition that the king has acted contrary to law.

Doctrine of Immunity in United States Of America.

The appearance of the doctrine of immunity in the United States of America was inherited from the English common law legal maxim rex non potest peccare, meaning "the King can do no wrong". The principle refers to the fact that the government cannot be sued without its consent. It was most astonishing and shocking. B. Schwartz was so stupefied and stunned at the concept that he observed thus:

> Why the English doctrine of sovereign immunity came to
> be applied in the United States is one of the mysteries of
> legal evolution. That the English doctrine should have
> been introduced into the United States where there was no king,
> where the chief of state was never sovereign, where from
> the beginning, sovereign power resided in the people, has
> appeared a mystery to certain America jurists themselves,
> and it is difficult to comprehend how a democratic republic,
> where the rights of individual against the state are fundamental
> legal principles, people could have accepted the doctrine of sovereign
> immunity of state and its non-liability for damages
> inflicted by its agents on private individual.

Perhaps the greatest proponent of the doctrine of sovereign immunity in the United States of America was Mr. Justice Holmes, who in 1907 declared in Kawanakoa v. Polyblank, that a sovereign is exempted from suit. He declared thus:

> A sovereign is exempt from suit, not because of any formal
> conception of obsolete theory but on the logical and practical
> ground that there can be no legal right as against the authority
> that makes the law on which the right depends.

The Americans who amended their constitution to accommodate the theory of sovereign immunity jettisoned it by promulgating the Federal Tort Claims Act of 1946. Thus, the Act makes the United States Government assume liability in Tort Cases and makes the government liable for negligent acts of its employee while acting within the scope of his employment. The philosophy behind this may be based on the concept of "equality before the law". Thus, Thomas Jefferson in the American Declaration of Independence from monarchial Britain to Republican America stated thus:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are life, liberty and pursuit of happiness. That to secure these rights, governments are constituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness .

The Declaration of Independence states the principles on which government and the identity of the citizens are based, to which Abraham Lincoln described as "a rebuke and a stumbling block to tyranny and oppression" . That no man is above the law of the land is very well reflected in the American system. But the journey from sovereign immunity to the present state of affairs has been everything but free and easy. By the decision of the court in Mississippi v. Johnson, the President was placed beyond reproach, indeed beyond the reach of judicial direction either affirmative or restraining in the exercise of his powers. It was almost difficult to explain and impossible to comprehend. Lord Bryce, piqued by the position tried a rationalization of the situation thus:

> The President is simply the first citizen of a free nation, depending for his dignity on no title, no official dues, no insignia of state … to a European observer, weary of the slavish obsequiousness and lip deep adulation with which the members of the reigning families are treated on the eastern side of the Atlantic frowned at in public and carped at in private, the social relations of an American President to his people are eminently refreshing. There is great respect for the office, and a corresponding respect for the man as the holder of the office, if he has done nothing to degrade it. There is no servility, no fictitious self-abasement on the part of the citizens, but a simple and hearty deference to one who represents the majesty of the nation… He is followed about and feted, and in every way treated as the first man in the company; but the spirit of equality which rules the country has sunk too deep into every American nature

> for him to be expected to be addressed with bated and whispering
> reverence. He has no military guard, no chamberlains or
> grooms-in-waiting, his everyday life is simple; he is surrounded
> by no such pomp and enforces no such etiquette as that which
> belongs to the governors even of second-class English colonies,
> not to speak of the Viceroys of India and Ireland.

The immunity imbroglio played itself in United States v. Nixon. , conversationally referred to as the Watergate Scandal . The special prosecutor appointed by the United States of America's Attorney-General requested President Nixon to produce tape recording of discussions which the President had with his advisers. The President's counsel had argued that the President was immune to judicial process, claiming: That the independence of the Executive Branch within its own sphere… insulates a president from a judicial subpoena in an ongoing criminal prosecution, and thereby protects confidential presidential communications. The United States Supreme Court held that the immunity privilege claimed had to be considered "in the light of our historic commitment to the rule of law". In fact, the court rejected the claim and ordered the tapes to be produced. It stated in its ruling that:

> Neither the doctrine of separation of powers nor the
> need for confidentiality of high-level communication,
> without more, can sustain an absolute, unqualified
> presidential privilege of immunity from judicial process
> under all circumstances.

However, the president of the united States of America enjoys absolute immunity from many lawsuits while in office; it is legally untested whether they also enjoy criminal immunity from arrest or prosecution. Neither civil nor criminal immunity is explicitly granted in the Constitution of any federal statute . Presidents Richard Nixon, Bill Clinton and Donald trump were criminally investigated while in office.

Constitutional Immunity In Nigeria

The doctrine of constitutional immunity in Nigeria is traceable to the doctrine of sovereign immunity which stems from the English common law and is established on the Latin maxim rex non potest peccare (the king can do no wrong). Being that the king or his representatives was solely responsible for law-making, executive duties and adjudication, the king was therefore exempted from legal proceedings, obligations and liability. Nigeria being a creation of the amalgamation by Lord Frederick Lugard with the 1914 Constitution, thenceforth, witnessed other colonial constitutional developments which birthed the 1999 Constitution with vestiges of colonial blueprints. 1960 independence constitution, the 1963 Republican Constitution and even the 1979 Presidential Constitution inherited numerous colonially induced master plans viz: Seditious Offences Ordinance, Immunity Clause, etc. The constitutions enacted and promulgated by both the civilian and military administrations over the years inherited these vestiges of colonial past. Thus, the President, Vice President, Governors and deputy Governors are protected by the law from prosecution. They cannot be sued in any Court for civil and criminal matters as provided in Section 308 of the Constitution of the Federal Republic of Nigeria (as amended).

There are, in the previous constitutions, provisions similar to section 308 of the 1999 Constitution . As a matter of public policy, as stated earlier, the principle of personal non-liability of the holders of the office of the Head of State and State Governors during their tenures is perfectly consistent with long standing traditions all over the world. This was

recapitulated in Donald Duke v. Global Excel Communications Limited . In Collins Obi v. Sam Mbakwe , it was stated that the constitutional provision is simply to prevent specified public officers from being inhibited in the performance of their respective functions while in office.

The Nature And Scope Of The Immunity Clause

The position of the law is that no criminal proceeding may be brought against the President in his private capacity during his tenure in office. The same is applicable to the Vice President, the Governors and their Deputies. Legally, they cannot be arrested or imprisoned while in office. Ordinarily, fairness demands that the statute of limitation does not run against a prospective plaintiff, until the expiration of office of the said public officers. In ascertaining whether any period of limitation has expired for the sake of any proceeding against the President, Vice President, Governors or Deputy Governors, account shall not be taken of their periods of office. The effect of the immunity is to prohibit the issuance of any court process, civil or criminal, in any whatsoever against the persons mentioned in section 308 (3) while in the offices they are selected into. On the nature and scope of immunity conferred by section 308, 1999 Constitution, the Court of Appeal per G. A. Grunted, J. C. A. stated in I. C. S. (Nig.) Ltd. v. Balton B.V . that: By virtue of Section 308 of the Constitution of the Federal Republic of Nigeria, 1999, no civil or criminal proceedings shall be instituted or continued against President, Vice President, Governor or Deputy Governor during his period of office. However, the provision of section 308 does not apply to civil proceedings against any such persons in his official capacity or to civil or criminal proceedings in which such person is only a nominal party. In calculating the limitation period, no account shall be taken of the period of office . Equally in Abacha and ors v. Fawehinmi , the Supreme Court per Uwaifo J.S.C reiterated this position thus: “The immunity provided does not apply to the person in question in his official capacity or to a civil or criminal proceeding in which such person is only a nominal party. The immunity is to protect such a person from the harassment of his person while in office for his action done in his private capacity before or during his tenure in office”. In fact, in the present case, the suit against the “Head of State and Commander in Chief of the Armed Forces (General Sani Abacha)” and it is in respect of his alleged action in his official capacity. The immunity provided for in the constitution does not arise and does not apply. On the nature and scope of immunity conferred by section 308, 1999 Constitution, the Court of Appeal stated in Industrial Commercial Service. (Nig.) Ltd. and anor. v. Balton B.V. that:

> By virtue of Section 308 of the Constitution of the Federal Republic of Nigeria, 1999, no civil or criminal proceedings shall be instituted or continued against President, Vice President, Governor or Deputy Governor during his period of office. However, the provision of section 308 does not apply to civil proceedings against any such persons in his official capacity or to civil or criminal proceedings in which such person is only a nominal party. In calculating the limitation period, no account shall be taken of the period of office

The key reason for the insertion of the clause has been attributed to the need for the holders of the office not to be unnecessarily encumbered by a spate of litigations. An unchecked flood of court processes will definitely lead to the capsizing of the boat of governance. In the Supreme Court case of Obih v. Chief Sam Mbakwe, Eso, JSC maintained that:

> The purpose of section 267 (now section 308) of the 1979

> constitution is clear. It is to prevent the Governor from being inhibited in the performance of his executive functions by fear of civil or criminal litigation… during his tenure of office.

A similar conclusion was reached in Alamieyeseigha v. Teiwa where the intendment of section 308 of the 1999 Constitution was highlighted thus: The purpose of section 308 of the 1999 Constitution which is in pari materia with Section 267 of the 1979 Constitution is to prevent the Governor from being inhibited in the performance of his executive functions by fear of civil or criminal litigation during his tenure of office. In the instant case, the action is designed to inhibit the appellant in the performance of his duties. The appellant thus has the locus standi to protest against any suit, as a party aggrieved, the end result which is to detract him from performing his functions as an elected Governor. The constitutional provisions, as designed, are to protect the person, and, not, the office of the incumbent chief executive. Thus much was made abundantly clear in judgments based on Section 161 of the 1963 Republican Constitution which is replicated in Section 308 of the 1999 Constitution. Thus, in Ebun Omoregie v. Col. Samuel Ogbemudia, where the plaintiff took out a writ against the defendant, then Governor of the Midwestern State, in his personal capacity, the action failed because it was held that the Governor could not be sued. The same was not the case in Adenrele Adejumo and ors v. HE. Col. Mobolaji Johnson, Military Governor of Lagos state. A list of cases has put this assertion beyond any doubt. The basic reason for this is that in a presidential system of government in which power is concentrated in the hands of the chief executive, it is sound public policy that the incumbent be made accountable, through normal judicial process, for all official actions taken in the name of the state and which affect the rights or vital interests of others.

However, this decision seems to be in contrast with the spirit and current of the Constitution of the Federal Republic of Nigeria, 1999 and other judicial authorities. In Tinubu v. IMB Securities plc, the court cited various judicial authorities where it was held that a Governor could sue notwithstanding the provision of section 267 of the 1979 Constitution which is on all fours with section 308 of the 1999 Constitution. In The Aper Aku Case and the Bisi Onabanjo Case the Courts held that nothing in Section 308 stops a Governor from suing in his personal capacity, distinguishing this right from the right of appeal the appellant had wanted to exercise in this case. The reasoning of the court was that this right of appeal arose out of a suit 'continued' against the Governor in his personal capacity as opposed to the Governor suing in his personal capacity. In Chief Olabisi Onabanjo v. Concord Press Of Nigeria Ltd. the Governor of Ogun State, claimed the sum of N500,000 as damages for libel, the scope of section 267 (now section 308) was raised by the defense. The court rejected the contention of the defendant that the Governor was barred from instituting the action by virtue of the provisions of Section 267 of the 1979 Constitution. Kolawole J. asked the pertinent but rhetorical question:

> Has the plaintiff any fundamental right to institute a civil action for any wrong before he became the Governor of Ogun State? The answer must be in the affirmative. Can such right be abrogated without an express provision in the law or the Republican Constitution? I do not think so.

It is clear from the provision of Section 308 (1) (a) that the immunity granted those public officers to whom the section applies, covers even pending suits or acts committed by them prior to their assuming office not just those committed while in office. Such pending suits shall abate until after their tenure from office. In Rotimi And Ors v Macgregor, the then Military Governor of Western State, 1st appellant herein, was sued personally over a parcel of land. The Supreme Court held that section 161(1)(c) of the the Nigerian

Republican Constitution 1963, (now section 308 of 1999 Constitution) conferred immunity on the first defendant, Col. Rotimi, and as such, that matter should not have been continued against him, since he became the Governor of Western State during the time the proceeding was pending. In Industrial and Commercial Services Nig. Ltd. And Anor v. Balton B. V. while hearing the appeal, the Court of Appeal suo moto raised the issue of the validity of the appeal, given the fact that the 2nd appellant (Donald Duke) was then the Governor of Cross River State and called on counsel on both sides to address it thereon. The court held inter alia that: Once one of the parties comes within the category of the office holder defined in Section 308 of the 199 Constitution, the proceedings must stop and the matter struck out, only to be commenced when that office holder shall have vacated his office. In this case by virtue of Section 308(1) (a) of the 1999 Constitution, the appeal by the two appellants is not maintainable. The appeal was accordingly struck out.

Limitations To The Immunity of The President And Governor

The immunities applicable to these category of public officers are not absolute. There exist militating factors in law and by implications viz:

1. The President and other beneficiaries may be investigated though they will not be charged to court until the expiration of their Tenure in Office. This was emphasized in Fawehinmi v. Inspector General of Police by the Court of Appeal that:

> The simple and ordinary meaning of section 308 (1) is that the
> person(s) to which the provisions apply should not be made to
> face civil or criminal proceedings in court.

The Supreme Court in affirming this decision stated in what easily is the judicial imprimatur that:

> Any of the office holders mentioned in Section 308 (3) of the 1999
> Constitution, that is the President and Vice President of Nigeria, and
> the Governor and Deputy Governor of a State can be investigated by
> the police for any allegation of crime or offence alleged against him.
> The immunity conferred by section 308 does not confer on any od them
> immunity from police investigation. This is because investigation of a
> criminal complaint by the police is a preliminary course which may not
> result in a criminal prosecution.

2. Immunity does not apply where the Governor is a nominal party in a dispute . Section 308(2)

provides that, the provisions of subsection (1) of section 308 shall not apply to civil proceedings against a

person to whom this section applies in his official capacity or to civil or criminal proceedings in which the

such a person is only a nominal party. The immunity does not apply to civil and criminal proceedings in

which any of them is just a nominal party.

3. The immunity granted the beneficiaries cannot be waived as it is absolute, though inchoate. In I. C. S.

(Nig) Ltd. v. Balton B. V., the court held that no question of waiver of relevant immunity by the incumbent of the offices concerned, or, indeed, by the courts, may, therefore, arise.

In Alamieyesiegha v Yeiwa, the court held that:

> The Governor cannot be sued or joined as a plaintiff or defendant as long as he remains governor. It is like a two-edged sword, he cannot sue and he cannot be joined in any proceedings.

4. This Immunity does not run in perpetuity. It expires the moment the Governor vacates his office.

5. The immunity conferred by the constitution inures during the tenure of office. As one eminent jurist put it, it is a "procedural immunity" .

6.The application of section 308 is a matter of domestic law which cannot, in the absence of a reciprocal treaty, be relied upon outside the territory of the Governor's home country .

7. Election Proceedings and Immunity Clause: The courts are in unanimity that election proceedings are sui generis, thus in an election petition, a Governor is not immune from legal proceedings against him .

8. Impeachment proceedings and the Immunity clause. The impeachment proceedings is a leeway to censor or remove an erring or recalcitrant President or Governor who may cloak himself with the immunity garb to perpetrate havoc and gross misconduct. In Balarabe Musa v Speaker of Kaduna State House of Assembly , where the impeachment was challenged by the Governor, the Acting Chief Judge held that the courts had no jurisdiction to entertain the suit because of the ouster clauses in the Constitution. The Governor was accordingly impeached.

9. Immunity and the Evidence Act: Generally, every person is a competent witness in any judicial proceeding. However, this is subject to exceptions. The question whether a person who is competent can also be compelled to give evidence, depends on entirely different considerations. It has also been postulated that the lack of an effective means of securing their attendance and their not being amenable to any form of punishment for failure to comply with an order of court to appear as witnesses necessarily imply that they are not compellable witnesses.

10. Immunity and Police Investigation: The immunity conferred on the office holders mentioned in Section 308 (3) is absolute, in the sense that during their tenure of office as prescribed by the Constitution, no legal process whatsoever and howsoever could be set in motion against their offices. This much was emphasized in the now cited case of Alamieyeseigha v. Chief Saturday Teiwa. In the words of Musdapher (JCA) (as he then was):

> It is immaterial whether the person enjoying the immunity is a party to the proceedings or not. What is important is whether there will be interference with the running of his office considering the nature of the order sought… In the instant case, although the appellant was not a party to the proceedings leading to the order of mandamus, there had been a breach of Section 308 of the 1999 Constitution since the effect of the order of mandamus obtained was to cause his prosecution.

CONCLUSION

Very few constitutional questions have remained as topical in contemporary Nigerian political cum legal discourse as the issue of what to do with the constitutional immunity conferred by section 308 of the Constitution of the Federal republic of Nigeria. Some commentators cynically refer to the provision as "impunity clause" . The provision remains, perhaps, the most debated in the 1999 Nigerian Constitution and two clear sides have emerged from this debate. One side argues for its retention, and the other side against its retention. Both sides are passionate and convincing. While some influential commentators have called for the abrogation of the immunity clause, hinging their stance on the need for all to be equal before the law and the overarching necessity to stamp out the culture of executive impunity and, yet many others have called for the retention of the immunity clause in the constitution.

Its abrogation, they submit, will leave the class of public office holders it protects totally exposed to all manners of fanciful litigations, and in the end, distract the incumbents from the herculean task of governance. To this latter class of commentators, the raison d'etre of constitutional immunity therefore is the need to have the wheels of governance absolutely unencumbered by the whims of the overly censorious litigant, who will never hesitate to exploit the machinery of adjudication to score a political point. There is indeed great merit in both arguments, thus, this work takes an excursion through the historical origins of the doctrine of "sovereign immunity", the various phases of its development and its eventual adaptation and incorporation into democratic institutions including the Constitution of the Federal Republic of Nigeria, 1999. The work draws admirably constitutional developments in the more matured jurisdictions, notably the United Kingdom and United States.

RECOMMENDTION

While showing profound appreciation for how governance has deviated from the constitutional responsibilities, and how previous governments have masterminded the plunder of national resources, proportionality demands that if the consequence of retaining the immunity clause outweighs the direct and concrete advantages expected from expunging it, then it must be maintained. The immunity clause is not founded in an expressed lack of confidence in the courts to dispense justice, but in political expediency as determined by the elite.

The Constitution was also not drafted by the beneficiaries of the clause and the drafters never thought the executives infallible nor did they want to offer them a gratuitous escape from the law. This is why the immunity granted the Executive is not absolute. In fact, it seems the law limits the powers of the President, Vice President and Governors in many instances as stated above. Among other provisions cited, the law provides that the executives can be sued in their nominal capacities; in a special tribunal for complaints arising from electoral matters and they could be impeached. Other charges are unhindered by the statutes of limitation, so they could be brought after the tenure of these public offices. Moreover, under the doctrine of the separation of powers, the actions of the president and governors are closely monitored through the oversight functions of the legislative arm of government and equally subject to judicial review.

This work posits that it is not the lack of appropriate laws that encourages corruption, but the lack of political will to fight it. A list of legal interventions against corruption endorses this claim. Most significantly, it is important to point out that the palpable functionality of a constitution largely depends on the practitioners.

Nigeria can still produce honest and committed politicians, who can conform to the norms set out in the Constitution for the prosperity of the state. To enhance democratic governance, a series of political reforms, including the widening of the political space

through participatory democracy, entrenchment of the principle of probity in government; institution of an electoral reform which will lead to a massive political re-orientation, ensuring that only people with impeccable character are elected to public office, strict adherence to the principles of checks and balances as expounded in the doctrine of separation of power and complete submission to the rule of law is recommended. Other measures proffered are the removal of the travesties of elective principles, such as the sales of votes, vote rigging, and biasness towards ethnic politics. In this cause, policy and ideological convictions must be the cornerstone of political association, and ideas and policies should be the currency for choice in the multiparty system. What is of paramount importance, is a conscious movement towards political and policy stability, thereby ensuring the rule of law and well-being for all Nigerians.

References

J. O. Akande, AKANDE: Introduction to the Constitution of the Federal Republic of Nigeria,(MIJ Professional Publishers, Lagos,1999 Lagos) p.434.

P. A. Oluyede and D. O. Aihe, Cases and Materials on Constitutional Law in Nigeria,(Oxford University Press,(1979) p. 476.

Colin F. Padfield, Law Made Simple,(Made Simple Books, Butterworth-Heinemann Ltd. Oxford,1992) p. 114.

B. O. Iluyomade, & B. U. Eka,, Cases and Materials on Administrative Law, Obafemi Awolowo University Press, 1992) p. 474; P. O. Oluyede and D. O. Aihe, Cases and Materials on Constitutional Law in Nigeria, supra, p. 476.

L. Jaffe, Judicial Control of Administrative Action,(Boston: Little Brown and Company, 1965) p. 198.

Bernard Schwartz, An Introduction to American Administrative Law. (London: Sir Isaac Pitman & Sons Ltd.(1962).

205 U.S. 349, 353, 27 S. Ct 526, 51 L. Ed 834 (1907).

Gellhom & Scherick, "Tort Actions against the Federal Government" 7, COL. L. REV. 722(1947).

The Gilder Lehrman Institute of American History. www.gilderman.org

National Archives https://www.archives.gov.

4 Wall 475 (1867).

Bryce, James and Louise Hacker, The American Commonwealth, vol. 1, (G.P. Putnam's Sons, New York (1959), 25-6

418 U. S. 683 (1947).

This was a major political scandal in the United States involving the administration of U.S President Richard Nixon from 1972 to 1974 that led to Nixon's resignation.

United States v. Nixon 418 U. S 683 (1974).

See Generally wwwfindlaw, U.S. CONSTITUTION; The issue was considered more fully by the lower courts: See Nixon v. Sirica, 487F, 2d 700, 708 712 (D.C. Cir 1973): Refusing to find President immune from Process.

Akhil Amar & Neal Katyal, Executive Privileges and Immunities: the Nixon and Clinton Cases,108 Harv.L.Rev.701,702,717 n.62(1995).

1979 Constitution, S. 267; 1963 Constitution S. 16.

Duke v. Global Communications Ltd (2007) 1 WRN 63

(1984) 1 SCNLR 192

[2003] 8 N. W. L. R. (Pt. 822), 277.

Ibid.

(2000) 4 S.C.N.J. 400 at

[2003] 8 N. W. L. R. (Pt. 822), 277.

Ibid (Pp. 233 234, Para. D.A.).

AKANDE: supra note, p. 431.

(1984)LLJR-SC

(2002)7NWLR (Part 767)581.

See also A. G. (East) v. Briggs (1965) NMLR 45.

(1973) 3 U. I. L. L.R. 115.

(1972) 2 U.I.L.L.R. 127.

Adesanya v. President of the Federal Republic of Nigeria & Anor (1981) 2 NCLR 358; Ralph Obioha and Anor v. President of the Federal Republic of Nigeria & or (1981) 2 NCLR 701.

(2001) FWLR (Pt. 55), 578, 584.

Aper Aku v Plateau, Publishing Corporation Limited (1985) NCLR 338; Bisi Onabanjo v. Concord Press of Nigeria Ltd. (1981) 2 NCLR: Oba George v. Governor of Ondo State (1982) 3 NCLR 349.

(1985) NCLR 338.

(1981) 2 NCLR.

(1981) 2 NCLR 399.

(1974) 11 S. C. 133.

(2003) 8 N. W. L. R. (Pt. 822), 224.

In Fawehinmi v IGP (2000) 7 NWLR (Pt. 665), "The Police refused to prosecute Governor Tinubu of Lagos State on alleged forgery of Certificate due to immunity under section 308 of 1999.

Fawehinmi v IGP (2002) 7 NWLR (Pt. 767) 606

[2002] 7 NWLR. (Pt. 767), 640.

See Section 308(2).

(2002) F. W. L.R. (Pt. 96) 552 C. A.

(2002) 7 NWLR(pt. 767)581.

Industrial & Commercial Service (Nig.) Ltd. v Balton B.V(supra)

Global Excellence Communication Limited and 3ors., v Donald Duke (2007) LCN/3618(SC).

See Joseph Ekpe Edet, The Rule of Law and Constitutional Immunity in Nigeria (Academic Publishing Centre, FUT, Minna) p.154-157.

Alliance for Democracy v Fayose (2003) FWLR (Pt.170)1396, paras. BH.

1NCLR 450.

T. Akinola Aguda: The Law of Evidence, (Sweet & Maxwell,1966) p.263.

F Nwadialo, Modern Nigerian Law of Evidence, (2nd ed., University of Lagos, Press.6. Cross, Rupert& anor.,(1971)..

(2002) F. W. L. R. (Pt. 96) 552 C.A

Victor Ndoma-Egba, Joe Edet, Immunity of Public Officers under the Nigerian Constitution(Hybrid Consult, Lagos) Back Page.