

An Appraisal of Election Petition Tribunals and Electoral Malpractices in Nigeria's Fourth Republic

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Abstract: *The focus of this study is an appraisal of Election Petition Tribunals and electoral malpractices in Nigeria's fourth republic. Despite the efforts of the Nigerian Judiciary through election tribunal towards curbing the problem of electoral malpractices, the rate of election malpractices such as result falsification, hijacking of ballot boxes among others appear to have remained on the increase. The study is qualitative and employed secondary sources of data; Data gathered were contently analyzed while Marxist (Karl Marx) theory of Class struggle was adopted as a theoretical framework for the study. Among other findings, the study established that election tribunal is not very effective in handling cases of election malpractices. Based on findings, the goals of Election petition tribunal in Nigeria's electoral process have not been realized. Hence, the role of the judiciary in Nigeria democratic system in ensuring that the processes and results of electoral competitions are upheld with all sanctity is farfetched. Based on findings, the study recommended among others, that political offices should not be made lucrative to the holders. It should be seen as service to the people as it is the case in liberal democracies. This will reduce the incidence of election manipulations by parties and their candidates during elections in Nigeria.*

Keywords: Election, Petition, Tribunal, Nigeria, Republic

INTRODUCTION

There are several reasons for conducting elections in a democratic system. Some of these reasons include the fact that it enables the people to take active part in the formation of their government, enhances the legitimacy of the government as being a byproduct of the collective decisions of the people, affords the electorate the opportunity to change an unpopular government without violence, gives the government the opportunity to test the popularity of its programme, helps to bring public office holders to account for their stewardship to the electorates, among others. Election according to Adirika (2015) is the process of choosing a person or a group of people for a political position through the instrumentality of voting. It is an indispensable attribute of democracy in every well-intentioned society. This position perhaps explains why Onunkwo (2018) stated that free and fair elections are the cornerstone of every democracy and primary mechanism for exercising the principles of sovereignty of the people. Through such elections, citizens participate in the governance of their country, by choosing those who govern in the quest for development.

Apparently, in the organization and conduct of election, it should be free and fair, but some of the necessary pre-conditions for conducting a free and fair election are neglected and not met because of election malpractice results. Election malpractice is the act of cheating, scheming and use of fraud to maneuver an election. Electoral Malpractices, according to Onunkwo (2018), could be defined as ways by which people try to influence the outcome of election results through the use of unlawful means. The purpose is for the result to favour their parties or the candidates they support. Electoral Malpractices are a form of political corruption; they are behaviours that spoil the reliability and integrity of elections (Nwankwo, 2014). Activities that can be described as electoral malpractices in Nigeria for instance include: production of fake ballot papers, manipulation of votes, hoarding of electoral materials, underage voting, intimidation of electoral officers or voters, false manifestoes, election rigging, distortion or doctoring of results, lack of discipline in the form, spirit and implementation of the election process and excessive use of money in politics.

In the views of Nwankwo (2018), Nigeria before independence in 1960, has had three cycles of elections beginning from 1914 when the amalgamation of the Northern and Southern protectorates was concluded to form the present day Nigeria. The September, 1923 election in Lagos and Calabar, following the introduction of Clifford Constitution of 1922 was the first one. In the election three seats for Lagos legislative council was won by the Nigeria National Democratic party led by the Herbert Macaulay while the Calabar Improvement League won the only seat for Calabar. The second election was an indirect system based on Sir Arthur Richards Constitution in 1946. The third election was regarded as the general election following Sir John Macpherson Constitution in 1959. The election ushered in Nigeria's political independence, as it was held in 312 single member constituencies nationwide. The first election after independence in 1960 was the general elections in 1964. It is perhaps arguably true to say that outright malpractices of elections in Nigeria began with that particular election (Okoro, 2018).

Election rigging takes various forms. This includes stuffing of ballot boxes, over-bloated voting registers, special treatment or bribing of voters and election officials, disappearance or destruction of ballot boxes, and so on (Johnson, 2020). Since the re-emergence of democracy in Nigeria in the Fourth Republic, the country has conducted six nationwide elections (in 1999, 2003, 2007, 2011, 2015 and 2019). These elections have shared many common features and few things differentiate them. For instance, the elections were all conducted periodically as expected, they were closely monitored by domestic and international observers, they arouse varied contestations from Nigerian politicians and voters, and they were all marred by varying degrees and calibres of malpractice. Apart from the 2011 and 2015 polls, the credibility and acceptability of the elections waned further with each subsequent election. In the 2019 elections, the issue of monetization of the electoral process in the form of vote buying was prominent. The inference from the conduct and outcome of these elections is that Nigeria is yet to demonstrate the attributes of a growing democracy (Yusuf, 2017).

The actions of the political process of the government have shifted from the normal electoral process to indulging in electoral malpractice. It is understandable that elections, particularly in Nigeria are fraught with complaints and counter complaints of irregularities and malpractices; one major way to tackle this problem is through election petition tribunal (Nwankwo, 2018). This is because Election Petition Tribunals offer aggrieved person in such elections the opportunity and avenue to seek redress through the law courts. The realization of possible imperfections in the electoral system calls for a redress mechanism where an aggrieved individual will ventilate his or her grievances against the outcome. This is the rationale behind the institutionalization of election petition all over the world. There appears to be paucity of research on the effect of election petition tribunal on the level of election malpractices in Nigeria. Also, many studies reviewed essentially suffer from disjointed empiricism, and as such unable to adequately illuminate the understanding of the effect of election petition tribunal on the level of election malpractices in Nigeria. It is against this background that the study provides an analysis of election petition tribunal and electoral malpractices in Nigeria's fourth republic.

STATEMENT OF THE PROBLEM

Electoral petition tribunal is a mechanism fashioned to take care of the seemingly perceived irregularities in Nigerian elections. However, despite the efforts of Nigerian Judiciary through election tribunal to curb the problems of election malpractices, the rate of election malpractices such as result falsification, hijacking of ballot boxes among others continue to increase in Nigeria. It seems that Election Tribunal is not very effective in handling cases of election malpractices because of corruption, abuse or misuse of judicial powers, exploitation of defects in the Electoral Act among others. To this vein, one cannot determine the effect of election petition tribunal on the level of electoral malpractices in Nigeria without a thorough study.

Another debacle is in the fact that in cases where an Election Petition Tribunal upturns an election and the case is upheld at the highest level of appeals (Supreme Court), the beneficiary of the fraudulent exercise, who might have enjoyed the perks of office for some time is left without consequences. This appears to embolden those with the financial, political and other means of rigging themselves to power to perpetrate electoral fraud in the hopes that before the lengthy court processes are concluded, they might have recouped their investments. All these tend to blight whatever might have been the positive effects of Election Petition Tribunals in curbing electoral fraud and malpractices in the Nigerian fourth republic, therefore, necessitating the need to address this knowledge gap in an effort to further enrich the extant literature; hence, the need for the study.

OBJECTIVE OF THE STUDY

The main purpose of this study is to provide an analysis of election petition tribunal and electoral malpractices in Nigeria's fourth republic. The specific objective is:

1. To ascertain the effectiveness of election petition tribunal in reducing electoral malpractice in Nigeria.

RESEARCH QUESTION

The research question below guided the study:

1. How effective is election petition tribunal in reducing electoral malpractice in Nigeria?

RESEARCH HYPOTHESES

This study is predicated on the following hypothesis.

1. Election Petition Tribunals in Nigeria have been ineffective in tackling the problem of electoral malpractice in Nigeria.

CONCEPTUALIZING ELECTORAL MALPRACTICES

Electoral malpractice generally refers to an instance where acceptable norms and principles that confer credibility on elections are desecrated; and in their place duplicity, falsehood, manipulation and cheating by any means are deployed to sway the outcome of elections. Eze (2014) defined electoral malpractice as ‘illegalities committed by government, officials responsible for the conduct of elections, political parties, groups or individuals with sinister intention to influence an election in favour of a candidate(s)’. Birch (2017) divided electoral malpractices -which she calls ‘electoral corruption’ - into three categories. They are malpractices that relate to the legal framework, malpractice related to preference formation, and malpractices centred on electoral administration. Electoral malpractice in any form is anathema to democracy because of its retrogressive effect on the quality of democracy in a country. As a corollary, electoral malpractices are not condoned anywhere in the world but rather censured. Abhorrence of electoral malpractice is necessary. If malpractices such as winning elections through rigging, massive use of money, use of violence against political adversaries and so on are unbridled, the tendency is for a negative culture of ‘political larceny’ to be inculcated by politicians. This ultimately dilutes the potency of elections as a means of peaceful transfer of political power and as a tool to legitimise political power (Iboku, 2020).

Electoral malpractices connote illegal act done with corrupt, fraudulent or sinister intention to influence the election in favour of a candidate (Nwabueze, 2015). Thus, every act of electoral malpractice is designed to secure undeserved victory for a candidate to the detriment of other candidates in an election. Electoral malpractices pose a major challenge to the growth and development of the Nigeria and this has continually deteriorated as later elections become worse than the previous ones. This is generally anchored on corruption which is a major threat to our electoral system. Corruption can be described as an effort to secure wealth or power through illegal means of public power for private benefit (Obayelu, 2017).

Corruption may be bureaucratic, economic and political corruption. The concept of electoral malpractice is more connected with political corruption which involves illegal, unethical and unauthorized exploitation of one’s political or official position for personal gain or advantage (Gyekye 2012 in Ozulu, 2016). From the above definition of political corruption, it can be correct to assert that the people that suffer political corruption include citizens of a political community and public interest in general and that political corruption includes electoral fraud, favouritism, nepotism and even illegal seizure of political power. It has remained a social ill that dents political system and tarnishes institutions political image. There are several ways people perpetuate this act:- It could be done by hiring personnel and provide them with fake identity cards; votes are bought either with money, recharge cards, food and drinks, ballot stuffing, misreporting of votes, multiple voting, using fake identification cards, bribing the electoral body and the security, misinformation of date, time and venue, use of electronic device, rigging, impersonation, falsification of election result, extending the voting period beyond the stipulated time, use of force and threat to influence voting pattern and electoral behaviour, campaigning around the polling unit on the day of election. Operationally, Electoral malpractice could be defined as the act of cheating, scheming and use of fraud to maneuver an election.

ESTABLISHMENT OF ELECTION PETITION TRIBUNALS IN NIGERIA

Election Petition Tribunals constitute the trail stage where petition of the petitioner and the reply of the respondent are demonstrated and tested before the Election Petition Tribunal. Evidence is adduced by both parties and exhibits tendered (where necessary) and it is on the basis of the evidence of the parties that the tribunal decides the fate of the petition. According to Okoye (2014), the Electoral Act, 2010 established a number of election petitions tribunals to hear and determine election petitions arising from due return of candidates or claiming the return of candidates or the validity of elections.

Elections can be said to be the life-wire of modern democracy and the frequency, fairness and openness of such elections are crucial to the political stability of Nigeria. The need to correct the problems encountered in the election process brought about the advent of Election Petition Tribunal and this has been adequately provided for under the 1999 Constitution of the Federal Republic of Nigeria (As Amended). Hence, the Nigeria Constitution establishes categories of election petition tribunals in Nigeria. In furtherance to the establishment of the Election Petition Tribunal in Nigeria, the Section 239 of the 1999 Constitution of the Federal Republic of Nigeria as Amended by Section 7 of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act, 2010 provision for the Court of Appeal, which has exclusive original jurisdiction to hear matters pertaining to the presidential election and states thus: Subject to the provisions of this constitution, the Court of Appeal shall have to the exclusion of any other court of law in Nigeria, have original jurisdiction to hear and determine any question as to whether:-

- a. Any person has been validly elected to the office of President or Vice President under this constitution, or
- b. The term of office of the President or Vice President has ceased, or
- c. The office of President or Vice President has become vacant.”

In line with the constitutional provision of election petition tribunals in Nigeria, the Section 133 (1) of the Election Act, 2010 (As Amended) of the Federal Republic of Nigeria provides that,

No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an "Election Petition") presented to the competent tribunal or court in accordance with the provisions of the Constitution or of this Act, and in which the person elected or return is joined as a party.

Pursuant to the afore stated constitutional provisions and provisions of the Electoral Act of the Federal Republic of Nigeria, there are basically four (4) types of Electoral Petition Tribunals namely.

- a. National and State Houses of Assembly Election Tribunals. (Section 285 (1) of the 1999 constitution of the Federal Republic of Nigeria (As Amended). It determines all matter arising from the conduct of election into the two (2) houses of the National Assembly which includes House of Representatives and the Senate and State House of Assembly.
- b. Governorship Election Tribunals (Section 285 (2) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended). It hears dispute arising from gubernatorial elections.
- c. Court of Appeal, which has exclusive original jurisdiction to hear matters pertaining to the presidential election (Section 239 of the 1999 constitution of the Federal Republic of Nigeria (As Amended). It functions as the election tribunal is to determine disputes arising from the presidential election which is the original jurisdiction, outside its normal appellate jurisdiction. At this juncture, it is important to note that while an appeal may lie from the Court of Appeal to the Supreme Court, in respect of the Presidential and Governorship elections (Section 233 (2) (e) of the Electoral Act 2010 (As Amended). On the vein, the decision of the court of Appeal on a matter that arises on appeal from National and State Houses of Assembly election petitions is final (Section 246 (3) of the Electoral Act 2010 (As Amended) and the Area Council Election Appeal Tribunal.
- d. The Area Council Election Tribunal for the Federal Capital Territory Abuja. This hears dispute arising from election into Area Councils of the Federal Capital Territory, Abuja which includes the offices of Chairman, Vice Chairman and a member of an Area Council. This is clearly stated under section 135 and Section 136(1) Electoral Act, 2010 (As Amended) section 135(1) of the Electoral Act, 2010 (As Amended) states that: -There shall be established for the Federal Capital Territory, one or more Election Petition Tribunals (in this Act referred to as the Area Council Election Tribunal). In the same vein, Section 136(1) of the Electoral Act, 2010 (As Amended) provides for that:

There shall be established for the Federal Capital Territory (FCT) the Area Council Election Appeal Tribunal which shall to the exclusion of any other court or tribunal hear and determine appeals arising from the decision of the Area Council Election Petition Tribunal.

It is also pertinent to note that there are also Local Government Election Tribunals established by Laws of States to hear disputes arising from local government elections of various States of the Federation based on state laws. This is flows from the powers vested on the various state government to legislate on local government was expounded by the Supreme Court in the case of Attorney-General of Abia State & Ors Vs. Attorney General of the Federation (2002) 6 NWLR (Pt. 763) 764.

ELECTORAL PETITION TRIBUNAL AND ELECTORAL MALPRACTICE IN NIGERIA

Election is the process of choosing a person or a group of people for a political position through the instrumentality of voting. It is an indispensable attribute of democracy in every well-intentioned society. This position perhaps explains why Vanguard, February 13, 2009 states that: Free and fair elections are the cornerstone of every democracy and primary mechanism for exercising the principles of sovereignty of the people. Through such elections, citizens participate in the governance of their country, by choosing those who govern in the quest for development. The above comment in Vanguard has raised yet another critical question in the Nigeria's electoral history since its corporate existence as a sovereign state. Thus, to what extent has Nigeria conducted elections devoid of consternations, fraud and agitation since independence? To what extent has the country's electoral system permitted the citizens to participate and freely choose those to represent them at various levels; ward, local, state and national? To what extent has this process ushered in the desired socioeconomic and political development to the Nigerian state? These questions are raised against the background of the fact that Nigeria's experience with democratic elections since independence has been rather mixed. Available evidence shows that no election conducted in Nigeria since independence has been completely free of charges of irregularities, electoral malpractices, violence and various degrees of disruption (Duru and Nwagboso, 2015).

This ugly scenario has continued to cascade the country's effort-cum drive to development. It is therefore, unrealistic to think that the above view is popular among members of the elite class in Nigeria who are the beneficiaries of the prevailing deformed democracy. This is because other countries in South East Asia who started the democratic process at the same time with us have left us far behind (Ebebebe, 2015). Thus, the 1979, 1983 and 1993 federal election were alleged to be characterized by various forms of malpractices (Duru, 2014). It was alleged that the citizens were not only denied of their constitutional rights to vote, but were also

imposed with candidates who could hardly win elections in their families not to talk of exalted positions they found themselves. Also the 1999, 2003 and 2007 general elections were replica of previous elections in the annals of the electoral history of Nigeria. According to Tosanwumi (2015), "the 2003 and 2007 general elections were classic cases of electoral malpractices and in spite of the numerous reversal of the declared results, INEC's boss, Prof Maurice Iwu comically told us that USA needed to learn from him how to conduct elections after Senator Barracks Obama was elected". This suggests that the Nigeria's electoral woes cannot be blamed on a single party. The electoral body, the political parties, the politicians, security agents and the civil society contribute in one way or the other to the electoral quagmires of Nigeria. The need to right the wrong of the country's electoral process necessitated the establishment of election tribunals.

Election tribunal is a type of court with the authority to deal with problems arising from the conduct of elections. Such tribunal is expected both in principle and in practice to be comprised of impeccable judges with the responsibility of investigating what actually transpired during the elections. Such tribunal is usually comprising of five (5) members. The Justices Uwais-led Electoral Reform Committee reduced it to three (3). This is to enable the members take sound decisions in case of disagreement among them. Section 140 (1) of Electoral Act, 2006 underscores the imperative for election tribunal and the procedure for questioning the return of a candidate as duly elected after election. This section states as follows:

No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an "election petition") presented to the competent tribunal or court in accordance with the provisions of the constitution or this Act.

Accordingly, section 140 (2a, and b), of this Act clarified what a tribunal or court means, its meaning in the case of presidential elections as well as other elections in Nigeria. It further stated in section 140 (3) that such tribunal shall be constituted not later than 14 days after the election. This explains why the former president, Chief Olusegun Obasanjo shortly after the announcement of the 2007 presidential election in favour of Alhaji Umaru Musa Yar'Adua by INEC declared that the burden of the claims that may arise from the conduct of the 2007 election rests squarely on the judiciary. Thus, Obasanjo's speech underscores the import of the judiciary (election tribunal) in addressing critical problems bordering on the conduct of election in Nigeria.

Electoral tribunal is a mechanism fashioned to address the seemingly perceived deformities of the Nigeria's chequered electoral process. It is strategic in the quest to strengthening the country's democracy. How to achieve this important objective has continued to attract comments and criticisms from political observers and analysts in Nigeria. Before the 2007 elections, electoral tribunals had been existing in the political history of Nigeria. Whether those tribunals nullified any election, ousted political office holders from office or called for a re-run election in Nigeria, is yet another big question to be answered by the judiciary and the political class. Before the inauguration of the tribunals investigating allegations of election malpractices in 2007, previous tribunals that adjudicated electoral cases of 1979, 1999 and 2003 contributed immensely to the decay of the country's democracy (Eze, 2014). The members of those tribunals were not only corrupt, but unfit to correct the perceived anomalies in the Nigeria's electoral process. Thus, this ugly trend affected the citizens' participation in the Nigeria's electoral process and led to the collapse of various democratic institutions in the country (Eze, 2014).

It even became a culture for those who never won elections not only to be declared winners but be allowed to served out their stolen mandates through the delay tactics of the tribunals. This situation adversely affected the morale of the electorate and the survival of democracy in Nigeria. This ugly scenario continued to cascade the electoral system of Nigeria until the recent but feeble attempts by the 2007 election tribunals, whose performances have raised critical questions among Nigerians over the capability of election tribunals in correcting errors in the country's electoral process. A cursory look at most reversal of declared results by the tribunals in Nigeria has sent jitters to the country's electoral system. To some Nigerians, the tribunals have performed creditably, while others perceived their activities as intra-personal war and personality clashes among members of the judiciary.

The governorship and legislative tribunals in Abia, Bayelsa, Enugu, Adamawa, Ondo, Ekiti, Kogi and Edo states nullified elections of state governors and some members of house of assembly in these states. Also, elections of some members of House of Representatives and Senate were nullified. These nullifications were on the grounds of electoral malpractices; that a candidate did not score the majority of valid votes cast at the election, that the candidate was not qualified to contest election in the first place, that the election was invalid by reason of corrupt practices at the time of the election etc. (Electoral Act, 2006: A70). In the case of Abia State, the lower tribunal nullified the governorship election on the grounds that the governor and his deputy were not qualified to stand for election, and that they did not resign their previous political appointments thirty days before election as stipulated by the Electoral Act, 2006. The Governor challenged the verdict at the Appeal Court sitting in Port Harcourt, River State.

The Appeal Court quashed the decisions of the lower courts on February 11, 2009. According to Onoyume, (2009), the Chairman of the Appeal Court, Justice Saka Ibiyeye resolved the ten issues raised from the grounds of appeal in favour of the Governor of Abia State. In his words: I resolve all the ten issues raised from the grounds of appeal in favour of the 1st and second appellants. The 1st and 2nd appellants are returned as governor and deputy governor of Abia State... relying on provisions of the constitution, the court held that Theodore Orji was not a public servant at the time he contested for the governorship election... (Vanguard, February 13,

2009:5). The decision of this appeal court may have sent yet another wrong signal in the minds of well-meaning Abians (the electorates), who actually knew what transpired in their state before, during and after the 2007 election.

More furious on the judgement was its contradiction with relevant section of the 1999 constitution. In fact, it violates section 12 (I, g and h) of the 1999 constitution. However, there is no rationale in the country's democratic experiment for chief of staff to the governor and commissioners in the state not to vacate their offices thirty days before contesting election in Nigeria. Consequently, the decision of these judges is capable of setting wrong judicial precedence in the country's journey toward credible election. In Bayelsa and Enugu states, the lower tribunal nullified the elections of Governors Timipre Sylva and Sullivan Chime. The decisions of the lower tribunal were based on the fact that the elections of these governors contradicted relevant sections of the 2006 Electoral Act. Hence, the decisions of the lower tribunal were challenged by the governors in the Court of Appeal sitting in Port Harcourt and Enugu.

The Appeal Court quashed the decisions of the lower tribunal and ordered for re-run elections in Bayelsa and Enugu State. In Adamawa, Sokoto and Kogi, the tribunals also called for re-run elections in view of glaring electoral irregularities and fraud perpetrated by the ruling Peoples' Democratic Party in these state. The results of the re-run elections were in favour of the ousted governors. In Edo State, the lower tribunal ousted Prof Oserheimen Osunbor of the PDP from office and ordered for the immediate swearing in of Comrade Adams Oshiomhole of Action Congress (AC). The decision of the lower tribunal was informed by the fact that the petitioner – Comrade Oshiomhole scored the highest member of valid votes in the April 14 gubernatorial election in Edo State. Consequently, Prof Osunbor appealed against the judgment. His appeal was dismissed by the Appeal Court for lack of merit. The same thing was applicable to the Labour party candidate in Ondo State, Dr Olusegun Miniko, who triumphed at both the lower tribunal and appeal court against the PDP candidate, Dr Agagu. The above analysis paints the picture of the legal scheming by the judiciary in the strive to correct the anomalies in the nation's electoral history. The truth of the matter is that the citizens of this country are yet to embrace the activities of this 'electoral watchdog' with two hands.

THEORETICAL FRAMEWORK

This study adopted Marxist Theory as the theoretical framework of this study. Marxian theory is a strand derived from conflict theory that is based on the writings or ideas of Karl Marx (1818-1883) and Fredrick Engels (1820-1895). Marxism views the change in the society to stem from the economic base and super structural institutions and a reflection of changes in economic base. The concrete form of economic base is the production of man's subsistence needs. Two major classes and groups are identified at all times. One group comprises few individuals who own and control means of production. The other group usually the majority of the group in the society is those who do the actual production by expanding their natural human labour power (Marx, 1848). Marxist believes that there is always a class struggle in the society between the ruling class and working as a result of the unequal distribution of resources. Thus, Marxian theory assumes that in every society, there are the rich and the poor. The rich are the elites who have the good things of life while the poor are those who are deprived of the good things of life. For Karl marx, the state is an instrument in the hands of the ruling class and places premium on economic conditions of society as the base upon which other superstructures of the society including the political and legal systems rest upon. (Ake; 1981) Karl Marx believed that societies are divided into classes with unequal resources and classes are determined by the position they occupy within a definite system of social production, thus, one class that controls the means of production that appropriate the products of labour to itself and to the detriment of the other classes.

APPLICATION OF THE THEORY TO THE STUDY

In relation to this study, the issue of electoral malpractices in the electoral process of Nigeria is anchored on Marxist theory. Hence, the elite dominating the game of political at all cost (to the inclusion of all forms of social vices/electoral malpractices/ money politics) and manipulating the whole process to ensure that the few elites dominates the wishes of the general public. This domination and manipulation includes all forms of electoral malpractices like manipulation of election results, money politics etc. In the same vein, these elite, in their quest to take over power by all means as against the wishes and aspiration of the majority of the population goes as far as interfering in the process of election petition tribunals and in most cases gain access to election petition tribunal judges and inducing them (through monetary enticement etc.) to deliver judgments of election petition in their favour, to ensure that the small minority (elites) remains in exalted political position and continue in their domineering activities. Marxist Theory is contending that those who hold the levels of power and dominate other superstructures of society like the judiciary and as well likely to "capture" or procure favourable judgments and ruling for themselves or their group. In application to this research work, the politician who controls power (most times the ruling party) capture the entire electoral process, manipulates it and most times gets favourable judgments at the election petition tribunals, thereby installing an unpopular leadership against the wishes of the masses.

ANALYSIS OF THE HYPOTHESIS: Election Petition Tribunals in Nigeria have been ineffective in tackling the problem of Electoral malpractice in Nigeria

The hypothesis harps on the ineffectiveness of the election petition tribunal in tackling the problem of electoral malpractices in Nigeria. Election Petition Tribunals are mechanisms fashioned to address the seemingly perceived deformities of the Nigeria's chequered electoral process. It is strategic in the quest to strengthening the country's democracy. How to achieve this important objective has continued to attract comments and criticisms from political observers and analysts in Nigeria. Before the 2015 elections, Nwankwo (2018) noted that electoral tribunals had been existing in the political history of Nigeria. Whether those tribunals nullified any election, ousted political office holders from office or called for a re-run election in Nigeria, is yet another big question to be answered by the judiciary and the political class. There have been allegations that members of Election Petition Tribunals that had investigated allegations of election malpractices in Nigeria were not only corrupt, but unfit to correct the perceived anomalies in the Nigeria's electoral process. Thus, this ugly trend affected the citizens' participation in the Nigeria's electoral process and led to the collapse of various democratic institutions in the country. It even became a culture for those who never won elections not only to be declared winners but be allowed to serve out their stolen mandates through the delay tactics of the tribunals.

This situation adversely affected the morale of the electorates and the survival of democracy in Nigeria. This ugly scenario continued to cascade the electoral system of Nigeria until the recent but feeble attempts by the 2011 and 2015 electoral tribunals, whose performances have raised critical questions among Nigerians over the capability of election tribunals in correcting errors in the country's electoral process. Thus, there is a correlation between the decisions of election tribunal and sustenance or survival of democracy in Nigeria (Dode, 2016).

Regrettably, democracy which the actions or inactions of the election tribunal affect is viewed differently by various individuals and scholars. Macpherson in Onunkwo (2018) averred that: democracy used to be a bad world. Everybody who was anybody knew that democracy in its original sense of rule by the people or government in accordance with the will of the bulk of the people, would be a bad thing-fatal to individual freedom and to all the graces of civilized living. Then, within fifty years, democracy became a good thing. It is clear that the real world of democracy has changed. The foregoing analysis suggests that the meaning of democracy varies from one individual to another. It also implies that its application in most modern societies could be misconstrued thereby resulting in politico and economic backwardness in the state. Democracy has become an ambiguous thing with different meanings even apparently opposite meanings. Thus, it is a political system in which different groups are legally entitled to compete for power and in which institution power holders are elected by the people and are responsible for the people (Dinneya, 2016). The most famous definition of democracy was that of Abraham Lincoln, who defined to an existing court order. Election years are most challenging periods for Nigerian Judges, desperate politicians, in a bid to win at all cost, even attempt reaching out to judges through their relations, friends and close associates with mouth-watering bribes in order to win election petition cases in courts. The truth is that no judge will go to any politician to seek for a bribe (Igbo, 2019)

Corruption undermines the independence of arbiters and judges, the legitimacy of electoral law and the right to an effective remedy. It represents a major threat to democracy, human rights and the rule of law and it endangers the stability of democratic institutions. It is from the same perspective that Puddington (2017) describes Nigeria's judiciary as "weak, unable to act independently or apply the law equally to all members of society." Bawa (2016) noted that the judicial process had certain ways of affecting the conduct of elections, ways that had adverse implications for the conduct of credible elections because over-reliance on legal technicalities not only thwarted electoral justice but also led to delays. This defeats the rationale for setting up special courts because the Electoral Commission does not need to be consumed by pre- and post-election petitions when it ought to be preparing for subsequent elections. So the judicial process has ways of affecting the conduct of an election. It has adverse implications for conducting credible elections because over-reliance on legal technicalities not only thwarts electoral justice but has also led to delays. It defeats the rationale for setting up a special court, because INEC should not be consumed with pre- and post-election petitions when it ought to be preparing for the next election (Nwankwo, 2018).

Much as the judiciary is central to supporting democracy, particularly in cultivating legitimacy for democratic orders, when the same judiciary is seen "as a safe sanctuary for election riggers" (Harunna 2018), it affects INEC's discharge of its powers and functions as contained in Part 1 of the Third Schedule of the Constitution (Federal Republic of Nigeria 1999) with respect to organising, undertaking and supervising all elections

DECISION: From the analysis with respect to the hypothesis on the ineffectiveness of the election petition tribunal in tackling the problem of electoral malpractices in Nigeria, we are constrained to accept the hypothesis and conclude that Election Petition Tribunals in Nigeria have been ineffective in tackling the problem of electoral malpractice in Nigeria. The basis for this decision will be further corroborated with the event that happened in Imo state with respect to the 2019 gubernatorial elections. After a protracted legal battle for the seat of government in Imo state, the Supreme Court on January 14, 2020 gave a controversial judgement sacking the acclaimed winner of the 2019 gubernatorial election in Imo state – Emeka Ihedioha – and replaced him with

the incumbent – Hope Uzodimma, who was adjudged the fourth position in the exercise, behind Uche Nwosu of the Action Alliance (AA) and Senator Ifeanyi Ararume of the All Progressives Grand Alliance (APGA).

The major ground for the Supreme Court decision was premised on a set of controversial results from 388 polling units across the state which were tendered in favour of Senator Hope Uzodimma of the All Progressives Congress (APC), but rejected by the INEC collation officers. The court added the figures and arrived at the conclusion that Hope Uzodimma, candidate of the APC was the winner of the election. The researcher found that the Supreme Court nullified the victory of the PDP on the ground that results from 388 polling units across the state were unduly rejected. According to the International Center for Investigative Reporting (ICIR 2019), the total number of registered voters in the 388 polling units are 245, 115. Number of PVCs collected in the 388 polling units are 199,415, the court by its considerations allotted 215,582 votes to the APC which means that the APC scored 16,167 votes higher than the total number of PVCs collected in the 388 polling units across the state. This may be in the post-election phase but it has played a role in discrediting the process thereby dragging the integrity of the judiciary in particular and the election in general to the mud. Therefore, the hypothesis was accepted.

CONCLUSION AND RECOMMENDATION

The study showed that election tribunal is not very effective in handling cases of election malpractices. Some of the problems affecting election tribunal in handling cases of election malpractices were corruption, abuse or misuse of judicial powers, exploitation of defects in the Electoral Act among others. This led to the conclusion that the goals of election tribunal in Nigeria's electoral process have not been achieved. Hence, the role of the judiciary in Nigeria democratic system in ensuring that the processes and results of electoral competitions are upheld with all sanctity is farfetched. Based on the above conclusion, the following recommendations were made:

1. Political offices should not be made lucrative to the holders. It should be seen as service to the people as it is the case in liberal democracies. This will reduce the incidence of election thuggery and unnecessary manipulations by parties and their candidates during elections in Nigeria.
2. The National Judicial Council should properly investigate bribery allegations against the tribunals' and appeal court judges that handled electoral cases of the 2007-2015. Appropriate sanctions should be awarded to those found guilty. This will not only serve as a deterrent to others in the subsequent elections, but also re-enforces the confidence of the people on the judiciary as the last hope of the common man.

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