



POST-ELECTION LITIGATIONS AND JUDICIAL INTEGRITY IN NIGERIA'S FOURTH REPUBLIC

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Article history:	Abstract:
<p>Received: October 11th 2021 Accepted: November 12th 2021 Published: December 30th 2021</p>	<p>The background to the study acknowledged the indispensability of credible election outcomes in a democratic government. fundamentally, this study set out to investigate the elusiveness of the realisation of credible adjudication of post-election petitions in Nigeria's fourth republic, as well as the reasons for the inability of the Judiciary to live up to expectation in this regard. Hence, the study critically examined the extent to which judicial integrity has been instrumental in the achievement of credible resolution of post-election litigations in Nigeria's fourth republic. The study invariably linked the unavoidable essence of judicial integrity to the realisation of the above objective. The study relied on secondary sources for data collection and used content analysis for data presentation, interpretation and analysis. The Institutional Integrity Theory on which this study was anchored, demonstrated the relevance of integrity as a cardinal virtue that promotes competence, effectiveness and excellence in public institutions like the Judiciary. This study, through several kinds of literature reviewed, revealed that poor integrity syndrome in the Nigerian Judiciary which has over time frustrated the actualisation of credible resolution of post-election litigations in Nigeria's Fourth Republic is responsible for public perception of the Judiciary as a corrupt institution. The study also discovered that some factors bordering on weak judicial autonomy, political interference, etc. are responsible for the decadent level of integrity in the Nigerian judicial system. The study, therefore, recommended among other things, a deliberate but determined attempt at sanitizing the judicial system, with a view to solving head-long, and the problem of integrity crisis in the Nigeria Judiciary.</p>

Keywords: Adjudication, Credibility, Judiciary, Judicial Integrity, Judgment, Petitions.

INTRODUCTION

Indisputably, the credibility of elections in a democratic clime is a principle that defines the extent to which the electorate repose confidence and faith in the electoral process of any sovereign nation-state. Hence, credible election outcome to a very large extent secure and guarantees the sustainability of the legitimacy of political leadership and also upholds social peace in any modern democratic practice. The above assertion captures in-depth, the position of Asogwa (2019). According to him,

The integrity of election outcome is measured by the degree of wide acceptability; the latter is undoubtedly determined by the consent of a majority of the electorate. When an election is marred with maximum irregularities, the credibility of its outcome becomes subjected to doubts. Even when such an election produces political office holders, their mandate is often threatened by

an evident crisis of legitimacy. The immediate consequence of this might have a far-reaching implication in the state of a nation's socio-political stability (p.78)

Unarguably, in most elections, there are always cases of doubts as to the credibility and fairness of the processes. Expectedly, such conditions create room for post-election litigations. According to Omenma (2015), cases of post-election litigations constitute events that characterise the aftermath of elections in developing countries, most especially countries in the African continent. Omenma further attributes this situation to the prevalence of weak democratic institutions. On the other hand, Omenma et al, (2017) noted that it is a display of a characteristic political culture of not conceding defeat after the declaration of the election result in developing countries. In the circumstance, judicial intervention becomes constitutionally pivotal in the hearing of, and subsequent determination of all post-election related matters. Hence, Nwabueze (2007) observed that the judiciary remains the only institution that is empowered by law to resolve post-election issues and make binding decisions on lingering litigations.

The need to maximize the gains that are realizable from post-election litigations lies predominantly on the competence, professional dignity and moral rectitude of the judiciary. To this end, Gazibo (2006) posits that the aspiration to achieve credibility in post-election petitions depends on the extent to which Judges who preside over post-election cases are prepared to give judgments without recourse to sentiments that are predicated on prejudice and low morals. According to Gazibo, the absence of the above key professional values has often led to a miscarriage of justice in post-election related matters. Gazibo further stressed that such a situation often leads to the legalisation of election results that do not reflect majority choice.

In the Nigerian context, scholars like Enweremadu (2011) and Omenma (2015) have separately observed that most judicial decisions on post-election petitions in Nigeria have variously betrayed the affirmation of the credible choice of the majority of the electorate. By implication, these scholars suggest that the Nigerian judiciary has over time, been complicit in endorsing the occupation of political offices by unpopular election candidates. Specifically, Asogwa (2019) pointed out that the Nigerian Judiciary, since the inception of the Fourth republic cannot boast of recording up to 40% success in dispensing objectively credible post-election litigations. According to him, the inability of the Nigerian judiciary to deliver post-election judgments that are devoid of obvious pitfalls and calculated miscarriages can be blamed on the absence of full autonomy that supposedly should be granted the judicial arm of government to dispense justice. Asogwa's position was corroborated by Udenwa (2020), who posits that the Nigerian political class has over time, sustained the culture of interfering in the activities of the judiciary. Again, Udenwa indicated that degenerate morals on the part of the members of the Nigerian Judiciary which subject them to indulgence in corrupt practices form part of the reasons for the inability of the Judiciary in Nigeria to exhibit a display of a high sense of integrity in the credible determination of post-election petitions.

In his opinion, Enweremadu (2011) posits that undue political interferences in the constitutional functions of the Nigerian judiciary have been responsible for incapacitating that organ of government concerning optimal performance. In a different view, Asogwa (2019) argues that the culture of inducement by politicians in the form of financially wooing members of the Judiciary tends to encroach on the capacity of the Nigerian judiciary to dispense justice dispassionately and with fairness. Furthermore, the issue of either inherent or acquired moral bankruptcy on the part of legal practitioners in Nigeria is supposedly one of the factors that is responsible for the growing incidences of the crisis of integrity in the Nigerian judiciary. In addition to the above-spotlighted factors, the Nigerian 1999 constitution as amended in 4,5,6, did not distinctly capture the designation of a full autonomy status for the Judiciary, especially as it relates to finance (Udenwa, 2020).

Therefore, this study seeks to examine the extent to which judicial integrity has either positively or negatively impacted the resolution of post-election litigations in Nigeria's fourth republic era.

METHODOLOGY

This study adopted the qualitative research method. Relevant data were obtained through the secondary source. These include textbooks, journals, newspaper publications and browsing of the internet. Content analysis was used in the presentation and interpretation of data.

CLARIFICATION OF CONCEPTS

Election

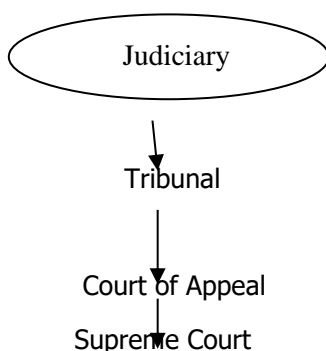
According to the Political Science encyclopaedia (2009), the election is a formal group decision-making process by which a population chooses an individual or individuals to hold public or political office. Azeez (2013) asserts that an election refers to an institutionally established tool for selecting occupiers of political offices in a democratic government. In their separate views, Gazibo (2006) and Omenma (2015) asserted that in democratic practice, an election represents a method by which power periodically transit from one administration to the other. To Asogwa (2019), elections are mechanisms that are enshrined in democratic principles and practice which enable eligible voters in a political system to change the undesirable crop of political officeholders. This was why, Adegbam & Adepoju (2017) observed that elections constitute a formidable instrument that consolidates and make relevant, the inevitability of the masses in any politically organised society. By implication, Adegbam & Adepoju suggested that elections largely denote a demonstration of the involvement and participation of the people in the politics and governance of the society.

Accordingly, this study establishes that an election entails a deliberate process that provides a periodic opportunity for eligible citizens in a politically organised society to select their representatives in government.

POST-ELECTION LITIGATION

Post-election litigations presuppose the series of legal challenges and disputes that are initiated by-election candidates or political parties, or both in a joint venture, after the announcement of election results. These post-election legal contentions are responses to rejection of election results by rival political parties or aspirants whom the certified results might not have favoured. Consequently, the dissatisfied aspirants or political parties will then approach the courts for remedy (Gazibo). According to Azeez (2013), post-election litigations simply represent a bulk of after-election grievances, disapprovals and outright objections to the purported credibility of election results which are documented in written form and formally forwarded to a procedurally constituted legal authority for interpretation and determination. Azeez (2013) further informs that the procedural arrangement of post-election legal components, in the Nigerian context represents the Tribunal, the Court of Appeal and the Supreme Court. Section 134(1) of the Electoral Act 2010 (as amended) provides that in the case of the decision by participants in an election to dispute the outcome, petitions are expected to be filed within 21 days of the post-election exercise.

Ogbuagu (2016, pp. 59-60) illustrates the tripodal judicial relationship in the legal dispensation of post-election matters in a diagrammatic chart as stated below:



From the chart above, Ogbuagu (2016) clarifies that post-election petition hearing in Nigeria is invariably inaugurated at the level of the Tribunal. At this level, it is anticipated that all parties to any post-election issue in dispute would exhaust all legal options at their disposal, prior to appeal at an appellate court, if need be. It is expected that counsel to the Plaintiff in any post-election matter in the jurisdiction of the Tribunal should provide all necessary documents in the form of exhibits, relevant to the litigation. The said exhibits, according to this source, usually comprise documented evidence of election fraud, violence and other related electoral malpractices. Accordingly, paragraph 4 (5) (a) of the 1st schedule to the Electoral Act 2010 (as amended) emphasized the proper and detailed screening of all the exhibits and testimonies, relevant to any post-election case. In the circumstance, respondents to the alleged electoral fraud, which in the context of the Nigerian situation usually comprise the rival candidate of the post-election in dispute, the political party under which the rival candidate contested the election, the electoral body and in some occasions, security agencies would be required to put up defences through their Lawyer(s). Consequently, the ruling of the Tribunal will be a product of the detailed examination of all the exhibits and evidence presented before the court. Ogbuagu (2016) further stated that the critically analysed evidence and exhibits are weighed alongside the arguments of both the prosecuting and defence counsel. In effect, the dissecting of facts will invariably produce the platform upon which judicial decisions are established and judgments, subsequently pronounced.

With reference to the above diagram, the second step in the hierarchically arranged chart represents the Appeal Court. According to Ogbuagu (2016), in the event of dissatisfaction with the judicial decision of the Tribunal by a Party to the litigation, the latter is free to appeal the judgment of this lower court to the Court of Appeal. Section 134 (2) of the Electoral Act 2010 provides that an election Tribunal shall deliver its judgment in writing within 180 days of filing the post-election petition. Ogbuagu (2016) holds that the Appeal Court, which is superior to the Tribunal, reserves the judicial preponderance and right to upturn the judgement of the Tribunal. This, according to him can only suffice when the superior arguments as presented by the counsel to the appealing party satisfies the outcome of the re-examination of all the evidence to the litigation, previously tendered at the Tribunal.

The third step in the hierarchy is the Supreme Court. Ogbuagu explains that this is the last stage where post-election litigations are entertained. Dissatisfaction with the ruling of the Court of Appeal leaves the discontent litigants or defendants with the option of appealing to the apex court. However, he notes that this stage entails the finality of the legal processes involved in the determination of post-election litigations. By implication, he suggests that whether favourable or otherwise, the decision of the Supreme Court on post-election petitions is ultimate and unavoidably binding on all parties to the litigation. In this regard, all parties to any post-election litigation are unconditionally compelled to accept the ruling of the Supreme Court on grounds of its pre-eminent status over other courts of law within the fold of the Judiciary. Hence, section 287(1) of the 1999 constitution of the federal republic of Nigeria as amended states that, "the decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons and by the court with subordinate jurisdiction to that of the Supreme Court".

This study, therefore, establishes that post-election litigation fundamentally entails a constitutionally endorsed process that allows for a resort to the legal option to seek redress or remedy for grievances, objections and rejections which usually follow the aftermath of general elections.

Judicial Integrity

Judicial Integrity, according to Esposito (2019) is primarily a systemic pre-condition for the sustenance of confidence in the judiciary to exercise its lawful responsibilities with ethical decorum, competence and dignity. Esposito further posits that the maintenance of trust in the judiciary will largely depend on the strict and conscious observance of the moral ethics of the legal profession by the members of the Judiciary. Enweremadu (2011), stated that judicial integrity consists in those professional principles and codes of conduct in the legal system, which are originally embedded in the globally-perceived core moral values. He further enunciates that moral values comprise the following virtues: honesty, discipline, sincerity and uprightness. The strict observance of these traits, according to Enweremadu has the inherent propensity to safeguard the integrity of the legal profession and enhance the consolidation of trust in the judicial system.

According to Nwabueze (2007), the exhibition of the virtues of integrity in the discharge of responsibilities by members of the judiciary can translate into an effective system of check-in the activities of democratic institutions of a state. In fact, Omenma (2015) affirms that if integrity is the core professional value that guides judicial practice in any democratic system of government, such will invariably have implications in efforts to curb corrupt practices and other indices of ill-governance. In the same vein, Ogbuagu (2016), attributes the realisation of the above feat to the fact that the Judiciary is vested with the constitutional mandate to impose legal sanctions on offenders of the law. Hence, Ogbuagu (2016) makes a case about the inevitability of the need for members of the Judiciary to live above board in the discharge of their constitutional duties.

This study, therefore, submits that judicial integrity refers to a conscious observance by members of the judicial organ of government, of a body of morally-inclined principles and ethics in their professional conduct.

THEORETICAL FRAMEWORK

This study is anchored on Institutional Integrity Theory. The fundamental idea of this theory presupposes the existence of core values, ethics, standards and principles on which an institution is established. Invariably, these established norms are expected to be the mantra on which the actions, functions, intra and inter-relational patterns of an institution are predicated (Brown & Head, 2005). Spigelman (2004, p.730) views Institutional Integrity Theory as an ideological framework that primarily supports the existence of a body of moral creed which binds on the structural existence, as well as the human resource component of an institution. He further informs that the theory embodies a holistic objective that aims at translating the ideals of institutional integrity into functional instruments that would guarantee a maximum expulsion of the tendencies of corruption and other aspects of morally degenerate attributes from all the branches and institutions of government. In corroboration, Elster (2000), observed that the practicability of the institutional integrity theory in the business of public governance by public servants would ensure a maximum realisation of the objectives, inherent in the public service.

Accordingly, Pope (2000) identified three dimensions of the theory of institutional integrity, and they include:

- a) **The Institutions of Integrity:** This denotes institutionalised norms and codes of behaviour or conduct that is expected to bind and regulate individual behaviour. It also anticipates shaping the context of integrity, defining and determining the moral limits of individuals as they co-relate in institutions or agencies of government. The test of the workability of institutions of integrity is mostly domiciled in governmental agencies like the Police and the Judiciary.
- b) **Individual Integrity:** This refers to the conventional assumption of integrity as honesty or decent behavioural traits that make people behave in a generally acceptable way. Such individuals exhibit such tendencies in the public institutions they are employed.
- c) **Societal-Influenced Integrity:** This aspect presupposes the consequence of the forces of social interactions. Normally, individuals tend to be socially impacted by persons with a positive, but the ideal sense of integrity when they come in contact. However, the reverse becomes the case when individuals come in contact with persons with negative behavioural tendencies

Collier & Esteben (2000), posited that the height to which practicable institutional integrity guides official conducts in government's agencies and institutions determines the degree of public trust in the public service. Brown & Head (2005) also asserted that an active system of institutional integrity in public institutions instils a high sense of moral discipline in public servants as they carry out their official functions. This was why Spigelman (2004) added that the judicial organ of government, being the constitutionally recognised watchdog for the observance and conscious practice of integrity in the public service should be a model for emulation.

This study adopted the Institutional Integrity Theory on account of its striking relevance to the core objective of this research work. Hence, the central objective of this work is pitched around the assessment of the extent to which judicial integrity has impacted the adjudication of post-election litigations in Nigeria's Fourth republic.

An Overview of Post-Election Related Litigations and Judicial Dispensations in Nigeria's Fourth Republic.

With the birth of the fourth republic, elections were conducted to fill political positions at the local, state and federal levels, as well as positions into the legislative chambers at both the state and federal levels. Three registered political parties, the People's Democratic Party (PDP); the All Peoples Party (APP) and the Alliance for Democracy (AD) contested

the general elections at all levels. However, at the national level, prior to the conduct of the presidential polls, there was a coalition between the APP and the AD which produced a presidential candidate in the person of Chief Olu Falae of the AD. Nonetheless, the product of the merger (Chief Olu Falae) contested the presidential election under the umbrella of APP. The outcome of the presidential election of 1999 that produced Chief Olusegun Obasanjo of the PDP as the duly elected President was rejected by his rival, Chief Falae of the APP, the latter alleged series of irregularities that characterised the conduct of the election. His rejection of the presidential election garnered sufficient support and significance, with the many attestations tendered by both local and international monitoring groups and observers on the alleged incredibility of the elections. Among these groups were: the Transition Monitoring Group, the Carter Centre, National Democratic Institute, International Republican Institute, as well as the EU election monitoring group. The presumed authenticity and reliability of the variously reported cases of irregularities in the conduct of the 1999 presidential election became more glaring with the surprising report of 100% percent turnout of voters in Rivers State. The bulk of post-election fraud allegations by Chief Falae formed the basis for which he approached the court of law (from the Tribunal to the Supreme Court) for litigation. Unfortunately, the post-election litigation against the outcome of the presidential election of 1999 by Falae was ultimately decided in favour of Chief Obasanjo, Falae was not satisfied (Olurode & Anifowose). According to Agbaje & Adejumo (2006), Nigerians, as well as the litigant (Chief Falae) were prevailed upon to accept the result of the presidential election, however flawed, as a way of consolidating on the euphoria that greeted the transfer of power from military to civil rule.

The conduct of the 2003 general elections in Nigeria was anticipated to witness a sharp decline in the irregularities that marked the 1999 elections. However, several reported cases of undue utilisation of the power of incumbency, rigging, vote-buying, inducement and intimidation of voters and electoral officers constituted some major malpractices that featured predominantly in the 2003 general elections. Expectedly, the various cases of malpractices that played out during the 2003 general elections instigated widespread rejection of election results nationwide. Consequently, that development fuelled a high rate of post-election litigations (Ajayi, 2003). Decisions of post-election cases by the Judiciary in 2003 assumed a pre-determined and predictable posture as they were witnessed to have mostly favoured a particular political divide. To clarify the above position, Ogbuagu (2016) informs that the overbearing dominance of the then ruling P.D.P. greatly influenced judicial decisions on post-election matters. At the national level, the presidential candidate of the ANPP, Gen. Muhammadu Buhari, with his party, rejected the validity of the election result which announced the re-election of Chief Olusegun Obasanjo of the P.D.P. as the President of the Federal Republic of Nigeria. The defeated presidential candidate with his party petitioned the court.

In their prayer, Buhari and the ANPP alleged several cases of malpractices which ranged from over-counting of ballot papers and boxes, over-voting, snatching of ballot boxes, deliberate de-registration of polling units, to the intimidation and harassment of opposition party agents by security agents, purportedly operating on the mandate of the incumbent government. Buhari's loss at the Tribunal warranted the continuation of the petition at the Court of Appeal. Incidentally, Buhari's second defeat at the Appeal Court prompted the then counsel to the opposition party (ANPP), Mike Ahamba to describe the ruling of the Appeal Court as been characteristically political than legal. He was impressed that the honourable judges of the Appeal Court who presided over the judgment were intimidated by the power of incumbency to needlessly discountenance the valid testimonies of over 300 witnesses and discard numerous exhibits and evidence, relevant to the litigation. Ahamba further alleged that the then ruling P.D.P exploited the advantages of a major defect in the Electoral Act of 2002, section 135(1) which failed to specify a time limit for the adjudication of post-election cases as a time-buying strategy. According to him, as the litigation lingered, it enabled the incumbent's tenure to protract and also, created ample time for politics to infiltrate the judicial process (Ojeifo, 2004). Ajayi (2006) asserts that the Supreme Court's stance on the post-election matter between Gen. Buhari and Chief Obasanjo in 2003 simply captured a re-echoing of the politically concocted script which had been conventionally administered at both the Tribunal and the Appeal Court.

The rejection of election results and the subsequent disapproval and dissatisfaction with the verdicts of courts on post-election litigations continued to take a sequential dimension as they were replicated in 2007. With about 1,282 petitions, it was established that the year 2007 marked the year with the highest number of post-election litigations. To further validate the authenticity of this information, the former Nigerian President, Umar Musa Yar'adua who was elected into office in 2007 verbally admitted that he was a beneficiary of a flawed electoral process (Daily Trust online news, 3/1/2020).

It was reported that Max van den Berg, the then Chief Observer for the European Union mission confessed that the 2007 presidential election had 'fallen short of the basic international and regional standard for elections and as such, cannot be considered to have been credible'. Also, observers from the National Democratic Institute stated that 'the 2007 polls represent a step backwards in the conduct of elections in Nigeria'. Furthermore, a prominent Nigerian lawyer, Femi Falana observed that lack of proper organisation on the part of the Independent National Electoral Commission, massive vote-rigging, widespread violence and intimidation witnessed in various polling units across the country provided enough evidence to warrant the cancellation of the presidential election of 2007. It is also on record that the then-Senate President, Senator Ken Nnamani, regardless of being a member of the then ruling party (P.D.P) was critical of the conduct of the presidential election. However, in the face of the numerous credible allegations of electoral fraud in the conduct of the 2007 presidential election, the Judiciary ultimately affirmed the victory of Alhaji Umar Yar'adua at the presidential polls (Polgreen, 2007, pp.12-13). According to Azeez (2013), four, out of the seven justices who delivered judgment on the 2007 post-presidential election litigation at the Supreme Court were financially compromised.

Azeez further alleged that up to \$30 million naira was splashed by the then ruling party in order to compromise judicial decision on the 2007 post-presidential election litigation.

In a similar circumstance, it was deemed by several critics, legal experts and a myriad of election observers as an inglorious display of compromise of integrity by the judges of the Supreme Court on how the latter delivered judgment in *Rotimi Amaechi vs Independent National Electoral Commission* in 2007. Part of the judgment as presided over by the Chief Justice of Nigeria, Justice Mahmud Mohammed had read thus:

The decision to substitute Celestine Omehia for Rotimi Chibuike Amaechi by the third respondent (PDP) during the period of pending gubernatorial election represents a display of very grave political rascality and an irresponsible and wanton disrespect for rule of law. Consequently, it is my judgment that this appeal is meritorious and I hereby declare Amaechi as the winner of the said election.

In fact, it was gathered that the editorial of *Tell Magazine* described as a 'judicial coup', the declaration of Chibuike Amaechi as the duly elected Governor of Rivers State by the Supreme Court- a man who never participated in the general election (Omotola, 2010, p. 546-547).

The report of the National Democratic Institute, following a comprehensive review of all processes leading to the conduct of the 2011 general elections in Nigeria indicated an obvious level of improvement over previous elections since the inception of the fourth republic. The improvement in the level of adequate preparedness and the display of transparency in the conduct of elections, according to the report was the direct product of the effectiveness of the reforms introduced under the chairmanship of Professor Attahiru Jega. However, in spite of these accomplishments, the Institute, after a review of the post-election era, recorded up to three hundred and seventy-five post-election petitions (Ogbuagu, 2016). A study carried out by Ojo (2011) reports that out of the 375 post-election petitions in 2011, the judiciary recorded up to 41% satisfactorily dispensed cases;-an up to 18% improvement over the three previous general elections.

In 2015, it was reported that the courts received a total of 663 petitions. Petitions against governorship elections were 41 in 24 states, while petitions against Senatorial, House of Representatives and House of Assembly elections were 81, 175 and 366 respectively. Allegations of high-level cases of armed violence, thuggery, killings, ballot box snatching, vote-buying, rigging and intimidation of voters characterised elections in the south-south and south-eastern parts of the country. In the northern part of Nigeria, several cases of underage voting, deliberate validation of fake election materials (in connivance with INEC staff), massive rigging, widespread voter impersonation (importation of foreigners to participate in the voting process), and a dominantly deliberate disregard of electoral guidelines were recorded. It was gathered that the Judiciary recorded 30% success in the overall dispensed post-election litigations. That undoubtedly meant a sharp decline of 11% from the previous year, 2011. Success in the adjudication of post-election litigations in this context is measured by the level of acceptability of the legal rightness and fairness of judicial pronouncements by parties to the litigations, as well as legal experts and other stakeholders in the conduct of general elections (Esposito, 2019).

Accordingly, Ogbuagu (2016) alleges that the Nigerian judiciary as an institution had its processes and ultimate judgments, distorted and super-influenced by the machinery of party politics. Ogbuagu made this assertion against the backdrop of his criticism of the position of the Supreme Court on the final determination of the 2015 Kogi State gubernatorial election petition. Following the sudden death of Prince Abubakar Audu, the governorship candidate of the APC, prior to the completion of collation of election results, INEC had consequently declared the 2015 Kogi State gubernatorial election inconclusive. In reaction, Audu's running mate, John Faleke had demanded that he be declared the rightful winner of the election. To his disappointment, the Kogi State chapter of the APC had, through the courts, compelled INEC to declare Yahaya Bello; the latter who came the second position during the party's primary election, as the Governor-elect. Ogbuagu had rationalised that since the late Prince Audu won 16 local governments out of 21 local governments and scored more than one-quarter of voters in the remaining five local governments, it was only appropriate and deserving for the running mate, John Faleke to be declared the true winner of the governorship election in the state. Ogbuagu's position was buttressed by section 179 (2) of the 1999 constitution which states that a candidate shall be considered to have been duly elected to the office of Governor of a state if-

- a) he has a majority of the votes cast at the election; and
- b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the local government areas in the state.

Therefore, a prudent analysis of the information excised from the above quotation could be interpreted to imply that John Faleke, who jointly ran the governorship ticket with the late Audu should have been duly returned as the winner of the 2015 Kogi governorship election. The opinion of Asogwa (2019) holds that the Supreme Court judges who presided over the Kogi State Governorship election petition could have been monetarily induced by politicians to undermine the sanctity and prestige of the legal profession.

The Judiciary again, failed in a test of professional competence and integrity as it delivered judgment on the 2018 post-Osun State Governorship election petition. It would be recalled that INEC had declared the APC candidate in the 2018 governorship election, Gboyega Oyetola as the winner, following a supplementary election conducted to make up for a previously declared inconclusive election by the electoral body. Consequently, the PDP candidate, Mr Ademola Adeleke petitioned the election Tribunal. In their judgment, the Tribunal rejected INEC's declaration of the first round of the election as inconclusive. In the wake of that, the Tribunal upheld Adeleke's 353 lead in the first round of election and subsequently declared him the winner of the election. In reaction, APC's Oyetola appealed against the judgment of the

Tribunal which had nullified his victory. Consequent upon Oyetola's appeal, the Appeal Court in its ruling overturned the judgment of the Tribunal and affirmed INEC's declaration of APC's candidate as the rightful winner of the election. The Appeal Court had justified INEC's position on grounds of the incidences of voter intimidation/harassment and ballot box snatching as reasons for the cancellation of elections in seven polling units in the state, hence the order for a re-run. Dissatisfied with the ruling of the Appeal Court, Adeleke of the PDP approached the Supreme Court, praying for a reversal of the Appeal Court's ruling which had voided the judgment of the Tribunal. However, the judgment of the Supreme Court was not in his favour as the apex court upheld the position of the Appeal Court which had ruled in favour of APC's candidate, Oyetola (Okakwu, 2019).

The verdict of the Supreme Court on the Osun State Governorship election petition was viewed by critics as a brazen display of judicial bias. Udenwa (2020) observed that the incidences of voter intimidation and harassment by security agents and thugs, as well as other related electoral offences which necessitated a re-run, were replicated in the supplementary election. However, the Supreme Court considered it legally appropriate to uphold the purported authenticity of the result of the supplementary polls.

The aftermath of the 2019 general elections left the majority of Nigerians disgruntled and utterly disappointed at the level of professional decadence and compromise of integrity in the judiciary. The Independent National Electoral Commission (INEC) declared President Muhammadu Buhari, the sitting President as the winner of the 2019 presidential election. His closest rival in the election, Alhaji Atiku Abubakar of the PDP rejected the result as announced by INEC and petitioned the Election Tribunal. Atiku, through his lawyers, alleged several cases of massive electoral malpractice which includes over-voting, over-counting in some polling centres and undercounting in others, inflation of results.

Aside from that, also contained in Atiku's petition was an allegation of a discrepancy between the result figures officially announced by INEC and the result figures stored in the Electoral body's central database. It was the claim of Atiku that he won Buhari, by virtue of the content of the election result in INEC's central server. Beyond that, Atiku's camp had also claimed that General Buhari did not possess the basic Secondary School Certificate requirement to contest for the election. Notwithstanding the gravity of the evidence-ridden allegations of electoral malpractices in the 2019 presidential election, the Tribunal dismissed Atiku's petition as lacking in merit and upheld General Buhari's re-election. Consequent to his loss at the Tribunal, Atiku pressed charges further to the Supreme Court, yet finally lost his case at the apex court (Campbell, 2019).

The Judiciary was severely criticized over its decision on the 2019 presidential election petition. According to Udenwa (2020), INEC's allegation that Atiku, with his Party (PDP), hacked into its official database, contradicts the Commission's claim of the nonexistence of a central database. Udenwa further averred that it was a perplexing development for the Judiciary to have discountenanced all these obvious points and went ahead to validate the 2019 presidential election. In a separate opinion, Asogwa (2019) posits that the Judiciary as an institution discredited its worth by buying into the falsehood, concocted by the ruling party that Buhari did not compulsorily need a secondary school certificate to contest for election.

The controversies that trailed the 2019 Imo State Governorship post-election litigation was a significant pointer to the extent to which the general public perceives the Nigerian judiciary as a morally degenerate institution. On the 5th of February, 2020, Emeka Ihedioha of the P.D.P. had appealed for a review of the 14th January's Supreme Court judgment which had sacked him as the duly elected governor of Imo State in the 2019 gubernatorial elections. Kanu Agabi, the lead counsel for Ihedioha and the P.D.P. during the review judgment informed the honourable Justices of the Supreme Court that the judgment of 14th January 2020 was erroneously delivered. He adduced three points to support his argument. First, he argued with strong evidence and exhibits that Hope Uzodinma prayed the court for a ruling that fresh elections be conducted in 388 polling units across the state. In the alternative, however, the Supreme Court ruled that he (Uzodinma) be returned as the duly elected governor of Imo State. Second, Agabi revealed that up to 129, 340 votes that were added up for Uzodinma were more than accredited voters. Lastly, he was impressed that Uzodinma played a fast one on the intelligence of the honourable justices of the Supreme Court by deliberately subtracting the votes of the other governorship aspirants in the contested 388 polling units. Agabi stressed that the Supreme Court was too hasty to pronounce its decision without verifying the above intrincating discrepancies.

However, while delivering the judgment, six, out of the seven Justices that presided over the matter held that the court lacked the jurisdiction to reverse its judgment. Specifically, Justice Olukayode Ariwola said that: "the court does not have the competence and lacks the jurisdiction to review its judgment". But, a dissenting judgment delivered by Justice Chima Nweze held a different opinion from that of the other six Justices. According to Nweze, contrary to the position of his colleagues on the irreversibility of judgments delivered by the court, the Supreme Court possessed the inherent powers to revisit, and where possible, reverse its judgment. Justice Nweze cited precedent cases in Nigeria where the Supreme Court was compelled by the peculiarity in circumstances surrounding such cases to reverse their earlier judgments. Nweze maintained that the enormity of the errors inherent in the 2019 Imo State gubernatorial post-election petition judgment had the compelling force to warrant a reversal. He further stressed that if the judgment was allowed to stand, it would forever, continue to demean the image of the apex court. In his words, "it would amount to a wonder that shall never end". Nevertheless, the voice of the minority can hardly suppress that of the majority. Hence, the choice of the majority triumphed and the judgment was not reversed (Onochie et al, 2020).

A Critical Examination of Some Factors that are Responsible for the Low Level of Integrity in the Nigerian Judiciary.

In their view, Omenma et al (2017) rationalised that the poor integrity status in the Nigerian judiciary is an integral of the broader systemic culture of corruption that is embedded in the Nigerian polity. Put differently, Omenma et al suggested that the prevalent trend of the crisis of integrity that persistently rocks the Nigerian Judiciary is a product or consequence of political or systemic corruption. To this end, Udenwa (2020, pp. 97-100) identifies four major factors that are responsible for the sterile integrity status in the Nigerian judiciary, and they include:

a) Flexible Judicial Autonomy: In this context, Udenwa thoroughly contends that the otherwise shaky and partial platform on which the Nigerian judiciary operates smacks a deliberate dismantling of the constitutional efficacy of the principles of separation of powers. Udenwa also noted that the lack of full autonomy for the judicial arm in Nigeria extends to issues relating to finance. Hence, Maduekwe et al, (2016) observe that the Nigerian system, since the inception of the Fourth Republic has consciously, but consistently underplayed the implication of section 6 of the 1999 constitution which vests the entirety of custodianship of law interpretation in the Judiciary. According to them, section 6 of 1999, among other things, clearly stipulates that all institutions of government; all existing authorities; however highly placed persons in authority are constrained to obey, comply and abide by any judicial decision, emanating from any court of law, (except where otherwise such judicial pronouncements are upheld by superior courts. In their view, Adegbami & Adepoju (2017) affirm that the flagrant disregard for court rulings by Chief Executives at both the federal and state levels constitute an abuse of the principle of separation of powers and the rule of law.

Analytically, Udenwa confirms that on account of the fragile independence status of the judiciary in Nigeria, the institution is stripped of the legal fortress on which to deliver judgments without fear of intimidation and with the utmost sense of integrity and credibility.

b) The politicisation of Judicial Appointments: While adducing this point, Udenwa observes that since the appointment of Judges is left to the final determination of Chief Executives of both State and Federal Governments, the process is always characterised by expedient manipulations and unhealthy underhand dealings. According to Ojoye (2018, p. 2), "the immediate consequence of politicisation of judicial appointments in Nigeria is illustrated in frivolous judgments and spurious perpetual injunctions". Udenwa captured a statement credited to the former Chief Justice of Nigeria, Walter Onnoghen. He noted that: "appointment of judges has become highly politicised as a governor of a state will not approve the names of persons nominated for the bench for NJC scrutiny if the names of his candidates are not included on that list". Udenwa further made reference to the Rivers State episode which prompted the denial of the State, of a Chief Judge from 20th August, 2013 to May 31, 2015. The then Governor of the state, Rotimi Amaechi had insisted that he had the prerogative as vested in him under section 271(1) of the 1999 constitution of the Federal Republic of Nigeria (as amended) to reject the recommendation of the National Judicial Council to appoint Justice Daisy Okocha as the Chief Judge of Rivers State. According to Udenwa, the role of Chief Executives at both the federal and state levels impinges on the objective of the NJC to produce judges with proven competence, high credibility and integrity status.

c) Perceived Corrupt Attitude of Members of the Judiciary: In this respect, Udenwa acknowledges that most court judges in Nigeria have 'itchy palms', and as such can easily succumb to being bribed in order to compromise judgments. To that effect, they end up denting, not only their integrity but that of the judicial body, hence, the public's perception of the judicial institution in Nigeria is on the negative angle. In corroboration to his position, He posited that a former Justice of the Supreme Court, Late Kayode Eso had described some of the judges who presided over the 2007 Election petitions Tribunal cases as "billionaire judges" due to the obvious sharp practices that characterised the 2007 post-election judgments. Also, a former President of the Nigerian Bar Association, Joseph Daudu once asserted that 'justice in Nigeria was for sale to the highest bidder'. He (Daudu) further alleged that most Judges in Nigeria were in the habit of collecting 'incredible sums of money' to compromise election petition judgments (Ojoye, 2018, p. 4).

d) Unwholesome Affinity between Party Politics and Judicial Business: While commenting on this, Udenwa noted that the illicit cordiality that exists between political party members and members of the Judiciary goes a long way to compromise the integrity of the Nigerian judiciary. Udenwa observed that the undue influence of political party members on Judges through activities of financial lobbying and other aspects of monetary inducements undermine the virtue of neutrality that should guide judges as they preside over election petitions that involve rival political parties. Udenwa reveals that political parties in Nigeria have Judges who are their covert members and as such, would be ready to take sides with them in the event of any election petition court trial. In a similar view, the former Chief Justice of Nigeria, Walter Onnoghen confessed that his removal as the Chief Judge of Nigeria was fundamentally informed by the belief of the ruling APC that he (Onnoghen) was fraternizing with the opposition party, the PDP. According to him, the ruling APC was apprehensive of the possibility of him, influencing the 2019 post-election litigations to the advantage of the PDP (Asogwa, 2019, p. 74).

Specific Findings from the Study

- a) Credible resolution of post-election litigations in Nigeria's Fourth Republic has been on the decline.
- b) The Nigerian public has lost confidence in the capacity of the Judiciary to credibly resolve post-election petitions.

- c) Perceived corrupt tendencies of most court judges impede the adjudication of post-election petitions with integrity and credibility.
- d) The influence of politics and party politics impacts negatively the integrity of court judges as they dispense post-election cases.
- e) Partial judicial autonomy is responsible for the poor integrity status of the Nigerian judiciary.

DISCUSSION OF FINDINGS

I. Credible Resolution of Post-Election Litigations in Nigeria's Fourth Republic has been on the Decline.

The enormity of data presented so far in this study indicates a corresponding deterioration in the failure of the Nigerian Judiciary to achieve maximum objectivity incredible post-election petition resolution over the periods under review. Several literatures reviewed in this study point to the extent to which post-election litigants, as well as the general public, demonstrate genuine dissatisfaction over post-election judgments, even when such judgments are pronounced by the Supreme Court.

II. The Nigerian Public has lost Confidence in the Capacity of the Judiciary to Credibly Resolve Post-Election Petitions.

This study confidently establishes, from the analysis of the data presented in this study that the members of the Nigerian public, over time, have lost faith in the judiciary to exhibit a high level of uprightness and integrity in the resolution of post-election matters. The inability of court judgments on post-election petitions in Nigeria to reflect the credible and honest interpretation of the legal implication of all the aspects of litigations gives the public the impression that court judges only read out judgments that had been previously pre-determined and prepared by politicians. According to Asogwa (2019, p. 95) informs that the aftermath of the 2019 Imo governorship post-election Supreme Court ruling has caused many Nigerians to have a total belief in the impression that the Nigerian judiciary has exchanged judicial integrity for pecuniary inducement and compensations.

III. Perceived Corrupt Tendencies of Most Court Judges Impedes the Adjudication of Post Election Petitions with Integrity and Credibility.

On the strength of the various literature reviewed, this study has uncovered that attitudinal decadence and overall poverty of morals on the part of court judges that make them prone to corruption, contribute to the prevalent integrity crisis in the Nigerian Judicial system. The natural propensity of most court judges in Nigeria to accept bribery and other forms of financial allurements in exchange for illicit compromise in judgments has over time, had negative implications in the determination of post-election petitions. In 2016, Justice Muazu Pindiga was arrested by the DSS for his complicity in the 2015 Rivers State election tribunal judgment. According to the source, Muazu cooperated with the DSS detectives in the course of interrogating him over an allegation of a N100 million bribe he received from Governor Nyesom Wike (Ogbuagu, 2016). The awareness by Nigerians, including factual testimonies by practising lawyers that post-election judgments in the fourth republic era are mostly bought with money, impinge on the integrity of the judiciary.

IV. The Influence of Politics and Party Politics Impacts Negatively on the Integrity of Court Judges as they Dispense Post-Election Cases.

This study revealed that interests built around sentiments that are based on politics and party politics greatly influenced judicial decisions on post-election litigations in Nigeria's fourth republic era. Beginning from 1999, post-election judicial decisions in Nigeria have always indicated undue subscription to the bidding of the influential political parties, most especially the ruling party. On the 19th of March, 2021, Governor Nyesom Wike, during a CNN pidgin English interview made an insinuation which by implication suggested that activities of party politics influenced the judicial decision on the Supreme Court judgment that declared the former Rivers State Governor, Chibuike Amaechi as the duly elected Governor in 2007. Nyesom Wike told his interviewer that Nigerians would be surprised if he revealed the extent to which sharp practices aided the former Governor Amaechi's Supreme Court's post-election petition victory in 2007. In the same vein, Ogbuagu (2016, p. 89) and Udenwa (2020, p. 98) have separately observed that the majority of Nigerians express a widespread view that the presence of Justice Mary Odili on the panel of Supreme Court Judges during rulings on post-election litigations always favoured P.D.P. litigants because Sir Peter Odili, a P.D.P. chieftain, is her husband.

V. Partial Judicial Autonomy is Responsible for the Poor Integrity Status of the Nigerian Judiciary.

This study finds that the lack of well-fortified judicial independence constitutes a major factor that contributes to the seemingly poor level of judicial integrity in Nigeria. This is true because, since the Executive arm of government enjoys a preponderant control of the judiciary in the aspect of appointment, discipline and dismissal of Judges, Judges of courts of law become constrained to compromise the integrity of their profession in order to impress Chief executives at either federal or state government level so as to remain relevant. The finding from this study confirms that sections 231 and 271 of the 1999 constitution of the federal republic of Nigeria which vest the powers of appointment of Judges in the President and State Governors respectively most times, aid the appointment of a bunch of mediocre and incompetent Judges to the bench. Invariably, such a development accounts for the rising cases of errors in judgments, especially as it concerns post-election petitions. This, in turn, discredits the image, reputation and integrity of the Nigerian judiciary.

CONCLUSION

Incontrovertibly, an electoral process that is consummated with high acceptability in the credible outcome of election polls is the platform upon which modern democratic practice thrives. In reality though, especially in developing democracies like Nigeria, a high probability of credible election outcome is mostly elusive. This is due to the fact that the process is always fraught with pitfalls.

In the wake of the realisation stated above, the Judiciary remains the institution, exclusively saddled with the constitutional responsibility to remedy all aspects of after-election defects and establish binding judgments on litigations. To achieve this objective, the Judiciary must possess the virtues of integrity, competence and credibility. Unfortunately, the inability of the Nigerian State to achieve a satisfactory degree of credible resolution of post-election litigations in Nigeria's fourth republic is attributable to the decadent level of integrity in the Judiciary. This study, therefore, unequivocally states that unless the factors that are responsible for the poor level of integrity in the Nigerian Judiciary are remedied, the achievement of credible resolution of post-election litigations could be a far cry.

RECOMMENDATIONS

This study recommends that the fortification of judicial autonomy is very critical to the desired restitution and reparation of the decadent level of judicial integrity in Nigeria. Provisions 231 and 271 of the 1999 constitution of the federal republic of Nigeria which confers on the President and State Governors the powers to appoint court Judges are defective. The constitutional provisions of 231 and 271 have the tendency to make court Judges subservient to the President and State Governors. Hence, such amounts to a threat to the sustainability of integrity in the judicial system. Therefore, this study is of the view that there should be an amendment to sections 231 and 271 of the constitution to reflect the conferment of full autonomy status on the Judiciary.

Beyond that, among the findings of this study is the fact that there is in existence a widely held perception by the general public that members of the Nigerian Judiciary are corrupt. That, to a large extent, compromises the integrity status of the Judiciary. Consequently, this study recommends that there should be a morally-inclined re-orientation of the judicial system, to reflect the correction of the prejudiced impression of the Nigerian public of the Judiciary as a corrupt institution.

Furthermore, this study recommends that the National Assembly should be prevailed upon to create a section in the extant constitution where Supreme Court judgments should be subjected to reviews, alterations and reversals. Such would be inevitable, in the event of seemingly high level of criticisms from the general public over evident realisation of legal errors and defects in judicial decisions.

Finally, strict adherence to the dictates of the constitution, electoral laws and guidelines should be made to have preeminence over the discretion of Judges in the determination of post-election litigations.

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