

# Incidências Crescentes de Disputas Pós-Eleitorais na Nigéria: Implicações para a Democracia

## Rising Incidences of Post-Electoral Disputes in Nigeria: Implications for Democracy

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**Resumo**—Desde o regresso da Nigéria ao regime democrático em 1999, o país tem continuado a testemunhar elevadas taxas de petições eleitorais apresentadas nos tribunais de petição eleitoral em todo o país após cada período eleitoral, numa tentativa de resolver disputas eleitorais. Todas as eleições que o país realizou - 2003, 2011, 2015, bem como as eleições gerais mais recentes de 2019 produziram um grande número de petições pós-eleitorais. Este estudo baseia-se nos métodos documentais de recolha de dados e análise de dados. Argumenta que o principal factor responsável por esta situação desfavorável é a debilidade do processo eleitoral e das instituições do país, que abre caminho a irregularidades maciças que tornam os resultados eleitorais incríveis e inaceitáveis, conduzindo assim a disputas e à apresentação de petições em tribunais por parte de candidatos lesados e dos seus partidos políticos. O documento opina que as elevadas incidências predominantes de petições eleitorais a serem testemunhadas na Nigéria na Quarta República são prejudiciais e prejudiciais para a prática democrática do país. Perante isto, o estudo sublinha que a Nigéria necessita de tomar medidas urgentes necessárias para resolver a situação. Consequentemente, sugere que a Nigéria deve reforçar o seu processo eleitoral e as suas instituições para alcançar eleições altamente credíveis, transparentes, livres e justas e aceitáveis em tempos futuros. Isto, na apresentação do estudo, ajudará a reduzir ao mínimo a quantidade de petições relacionadas com as eleições e a evitar os efeitos negativos do fenómeno na democracia do país.

**Palavras-Chave** — Democracia, Eleições, Petições Eleitorais, Tribunais de Petição Eleitoral, Processo Eleitoral.

**Abstract**—Since Nigeria's return to democratic rule in 1999, the country has continued to witness high rates of election petitions filed at election petitions tribunals across the country after each election period, in a bid to resolve electoral disputes. All the elections the country has conducted - 2003, 2011, 2015 as well as the most recent 2019 general elections have produced large numbers of post-election petitions. This study relies on the documentary methods of data collection and data analysis. It argues that the major factor responsible for this unfavorable situation is the weakness of the country's electoral process and institutions, which paves the way for massive irregularities that render elections results incredible and unacceptable, thereby leading to disputes and filing of petitions at tribunals by aggrieved candidates and their political parties. The paper opines that the prevailing high incidences of election petitions being witnessed in Nigeria in the Fourth Republic are unwholesome and inimical to the country's democratic practice. In view of this, the study emphasizes that Nigeria needs to take urgent necessary measures to address the situation. Accordingly, it suggests that Nigeria should strengthen her electoral process and institutions to attain highly credible, transparent, free and fair and acceptable elections in future times. This, in the submission of the study, will help to reduce the spate of elections-related petitions to the barest minimum and avert the negative effects of the phenomenon on the country's democracy.

**Keywords** — Democracy, Elections, Election Petitions, Election Petition Tribunals, Electoral Process.

**Submitted**—18-05-2022. **Accepted**—06-01-2023.



## 1 Introduction

Election is the heartbeat of democracy. It is the only activity that provides all eligible citizens of a country with ample opportunity to directly participate in decision-making regarding their common political aspirations and wellbeing. Therefore, in all named democracies, elections elicit widespread attention due to the high stakes and interests involved coupled with their resultant effects on peace, governance stability and development of democratic ideals. Impliedly, the conduct of elections is very critical to the consolidation and sustenance of the democratic system, as well as the attainment of overall political maturity in both old and new democracies. In view of this, the administration of electoral procedures in both developed and developing societies is generally considered a sensitive and delicate duty as any observed slight irregularities would readily render the processes incredible, and most likely result in petitions or litigations. However, it is noteworthy, according to the Supreme Court of Nigeria that "elections are hardly ever conducted without some irregularities. No matter how well the regulatory authority conducts an election, there are complaints. These complaints, more often than not, lead to formal election petition filed by losers who are unsatisfied about the outcome of the election" (Nigeria Civil Society Situation Room, 2015, p. 17).

The rate or number of post-election disputations in courts is regarded as one important parameter for measuring the pace of democratic development; a democracy is said to have been consolidated if post-election petitions are few (Independent National Electoral Commission, 2015). Elections petition cases do occur in all democracies; however, they can be said to be unarguably more prevalent and pronounced in younger democracies than in older democracies. The underlying reason is that, besides their longer experiences of the practice of democracy, most established democracies, especially in Europe and America have long evolved more transparent, ro-

bust and formidable processes, institutions and mechanisms that enable easy conduct of credible and hitch-free elections. On the other hand, institutions and procedures for election administration in democratizing societies, in particular, those of Africa where democratic practices are yet to be firmly rooted, are still substantively very weak. Consequently, elections are usually characterized by massive irregularities. Disputations arising from these irregularities almost always lead to crises and the filling of petitions in the Elections Petitions Tribunals by aggrieved parties who would normally seek redress and justice through legal means. Thus, post-election periods in most nascent democracies often witness the prevalence of election litigations.

Specifically, with regards to Nigeria, it is undeniable that, "since the return to civil rule in 1999, Nigeria's electoral process has been fraught with rancor and protestations, often giving rise to a plethora of election petition cases" (Nigeria Civil Society Situation Room, 2015, p. 17). The magnitude of post-election petitions being witnessed each election year in Nigeria since the dawn of the Fourth Republic has been alarming, vividly indicating that the country's electoral process is still faced with certain fundamental challenges. The contestation of these cases at Election Petitions Tribunals unarguably has overarching consequences for the country's democracy. It is against this backdrop that this paper examines the incidence of high rates of election petitions in Nigeria's Fourth Republic with the view to explaining its implications for country's democratic practices. In terms of scope, the study is limited to election petitions related to presidential and governorship elections Nigeria has conducted since the dawn of the Fourth Republic, including the recent 2019 general elections.

The paper is structured into five separate but complementary sections, with the introductory part as the section one. Section two is a reflection on the post-electoral disputes witnessed in Nigeria during the previous republics. Section three analyzes the high incidence of post-election disputes in Nigeria's Fourth Republic. Section four highlights the implications of the phenomenon for the country's democratic practice, while section five consists of the conclusion and recommendation of

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the study.

## 2 Reflections on Post-Electoral Disputes in Nigeria during the Previous Republics

Post-election petition is generally known as an attribute of electoral democracy. Hence, it is worthy of note that the phenomenon of election petitions is not the feature of the Fourth Republic alone. Previous Republics in the country had witnessed some notable instances of disputations and contestations related to electoral matters. It may be rightly argued that the trend is more pervasive and outstanding under the current Republic than in preceding Republics in terms of frequency and number of cases, the fact remains however, that all elections held in Nigeria from inception had witnessed post-election petitions cases. Undoubtedly, "as noted by the late President Yar'adua during the inauguration of the Electoral Reform Committee in August 2007, since the 1959 elections, which were the last to be supervised by the colonial authorities, all but one election has had its result contested" (Animashaun, 2010, p. 6).

Thus, a convenient point of departure in this regard would be the December 1959 pre-independence general elections, which was to usher Nigeria into nominal independence on October 1, 1960. One notable thing about the 1959 election was that it featured key regional politicians, namely, Dr. Nnamdi Azikiwe and Chief Obafemi Awolowo, former premiers of the Eastern and Western regions respectively, who unarguably desired to be the "first prime minister" of independent Nigeria (Akinola, 2015). Both of them, Azikiwe and Awolowo relinquished their premierships to Michael Opara and S. L. Akintola respectively and aimed to go to the federal level in Lagos (Isah, 2019). Their counterpart in the north, Sir, Ahmadu Bello, the then premier of the Northern Region preferred to maintain his position, while his deputy, Sir Abubakar Tafawa Balewa, led their political party Northern People Congress (NPC) at the federal level of governance (Akinola, 2015).

The outcomes of the 1959 elections provoked one of the greatest electoral disputes ever witnessed in Nigeria's history, even though there was

no Election Petitions Tribunal in the country as at that time to adjudicate the matters. The results of the elections did not produce clear winners for the offices of Governor-General and Prime Minister respectively (Olaniyi, 2013). Out of a total of 7,628,847 votes cast, with voter turnout of 79.5%, the Action Group (AG) got 1,992,364 (26.1%) but won 73 out of the 312 total seats. The Northern Peoples Congress (NPC) polled 1,922,179 (25.2%) votes and won 134 seats out of the 312 seats, while NCNC won 89 seats (Isah, 2019). From the results, the AG won the highest number of votes but had the least number of seats, while NPC won the highest number of seats but only had simple majority. This development gave rise to horse-trading among the first three political parties, which lingered for months and eventually led to the formation of coalition (Olaniyi, 2013). NPC formed a coalition with five other parties and two independents, having a total of 148 seats. Subsequently, NPC and NCNC formed a coalition government which had Alhaji Abubakar Tafawa Balewa as the Prime Minister of the independent Nigeria while Dr. Nnamdi Azikiwe was the Governor-General. The AG became the official opposition party in the Federal House of Representative with Awolowo as the leader, while the party's deputy leader, Chief S. L. Akintola, remained the premier of the Western Region (Isah, 2019).

In the words of Olaniyi (2013, p. 291), "these arrangements however, set the Western Region against the other two Regions (North and East). The divisions lingered on till the collapse of the First Republic". As Isah (2019, para. 7) opines:

*Perhaps, with little or absence of avenues to ventilate his grievances, Awolowo took a recourse to self-help. No Election Petition Tribunal was constituted to adjudicate on election disputes, just as the number of seats allocated to the north which was under the grip of the NCP was hurtful and humiliating for Awolowo who strongly believed had the best plan and programs for accelerated transformation and development of the country.*

Awolowo acknowledged the precarious position of himself and his party, having been excluded from the National Government. Being dissatisfied with their exclusion from power, some politicians,

led by Akintola, broke-away from the AG and formed the Nigerian National Democratic Party (NNDP) under the leadership of Akintola. Constitutional crisis in the region propelled the Federal Parliament to declare a state of emergency in the West, leading to the suspension of the elected Western Regional Assembly, which was later re-constituted following new elections that brought the NNDP into power (Isah, 2019). However, intense cold war persisted between Awolowo and Akintola, and the developments snow-balled into series of political crises in the Western Region which saw the collapse of the Fourth Republic on January 15, 1966 (Olaniyi, 2013).

The Second Republic was also not void of post-election disputes. The first election under the Second Republic, held on August 11, 1979, was notable in this regard. With the publishing of the draft 1979 constitution and lifting of ban on politics on September 21, 1978 by the then Olusegun Obasanjo regime, majority of the First Republic politicians found their footings into the political scene. The parties that contested the election were the National Party of Nigeria (NPN), Unity Party of Nigeria (UPN), Nigerian Peoples Party (NPP), Great Nigeria Peoples Party (GNPP), Nigeria Advanced Party (NAP), and Peoples Redemption Party (PRP). Alhaji Shehu Shagari NPN, Azikiwe NPP, Awolowo UPN, Aminu Kanu PRP, and Adamu Waziri GNPP, were the presidential candidates that participated in the election (Isah, 2019b). At the end of the election Shagari polled 5,668,857 votes which represented 33% of the total votes. Awolowo of the UPN had 4,916,651 votes which was 29.18% of the total votes. Azikiwe of the NPP scored 2,822,523 votes constituting 16.75% of the total votes. Aminu Kano of the PRP won 1,732,22 which was 10.28% of the total votes, while Adamu Waziri of the GNPP grabbed 1,686,489 which represented 10.02% of the total votes cast. The election result was disputed by Awolowo and Waziri on the ground that the declared winner, Alhaji Shehu Shagari of the NPN, did not meet the constitutional specification. It is stipulated in Section 125(b) of the 1979 Constitution of Nigeria that, for any candidate to be declared winner of the Presidential Election, the person should have both the majority of votes and at least 25% of votes cast in two-third of the

19 States (Isah, 2019b).

Two-third of 19 states should have translated to mean thirteen (13) states, however, there were no fractions of the States. Notwithstanding, Alhaji Shehu Shagari, having won the highest number of votes cast (5,325,684) in twelve States was declared the winner by the Federal Electoral Commission (FEDECO), the then country's Election Management Body. In view of this, Shagari was challenged by Awolowo and Waziri who insisted that the election result should be annulled since none of the participants met the constitutional requirement to be declared winner and sworn-in as the President. However, on September 26, 1979, the Supreme Court decided the matter in favour of Alhaji Shehu Shagari (Olaniyi, 2013). In the opinion of Onuoha and Fadakinte (2005, p. 6), the Supreme Court's upholding of the election of Shagari was "a judgment of political stability". This was because they believe that the Court understood that delay in handing over power was capable of resulting in further crisis that might pave the way for another take-over of power by the military (Olaniyi, 2013). According to Isah (2019b, para. 24), "even though the controversy over the outcome of the poll was resolved by the Supreme Court, what constituted two-third of 19 states as stated in that judgment was still in disputes". Be that as it may, the decision of the court prevailed in the long-run. Isah (2019c, para. 2) notes that, "in strict sense of the words, the country began to establish Presidential Election Petition Tribunals and other forms of Tribunals against the backdrop of 1979 general elections".

The second election in the Second Republic the 1983 general elections, also did not escape disputations. The Presidential election was held on August 6, 1983. The then incumbent President, Shehu Shagari (NPN), had defeated his main opponents, Awolowo (UPN) and Azikiwe (NPP) with a wide margin. Out of the total of 25,430,097 votes, Shagari (NPN) scored 12,081,471 votes (47.5%). Obafemi Awolowo (UPN) got 7,907,209 votes (31.2%), while Nnamdi Azikiwe (NPP) polled 3,557,113 votes (14.0%). The candidate of the PRP, Khalifa Hassan Yusuf won 968,974 votes (3.8%). Ibrahim Waziri of GNPP had 643,806 votes (2.5%) and Tunji Braithwaite of the NAP polled 271,524 votes (1.0%). Opponents

dismissed the results as massively rigged in favour of the then ruling NPN, while the party (NPN) termed its victory as 'moon slide'(Isah, 2019b). Besides the Presidential elections, a more serious and notable post-electoral disagreement that was witnessed during the second round of election in the Second Republic followed the announcement of the outcomes of the governorship elections held on August 13, 1983.

The disagreements triggered-off intense crises in some states and led to the death of over 70 people and massive destruction of property. However, the violence was mainly limited to 2 of Nigeria's 19 states, Oyo and Ondo, traditional strongholds of the Unity Party of Nigeria (UPN) (Isah, 2019b). Olaniyi (2013) believes however, that it was the case of Ondo State that most attracted the attention of political analysts. The disagreement arose following the declaration of Chief Akin Omoboriowo, the then Deputy Governor of the State, as the winner of the governorship election, by the country's then electoral umpire, FEDECO. Chief Omoboriowo was alleged to have defeated his boss, the then Governor of the State, Chief Adekunle Ajasin. Chiefs Ajasin and Omoboriowo had emerged victorious in the governorship election that brought them into office under the platform of the Unity Party of Nigeria (UPN) in 1979. Notwithstanding, clashes ensued between the duo when Adekunle Ajasin desired to vie for a second term in office as governor of the state, whereas Chief Omoboriowo argued that Chief Ajasin, had assured him that he would not contest for a second term. But Chief Ajasin denied this claim. Chief Omoboriowo, being the sitting Deputy Governor of the State as at that time then defected to the National Party of Nigeria (NPN) (Olaniyi, 2013).

The NPN was an opposition party in Ondo State, but the ruling party in the centre. Omoboriowo contested the Governorship election under the platform of the party. At the end, the outcome of the election triggered-off serious political violence which resulted in the destruction of properties worth millions of naira and killing of some prominent politicians in the State, including, for example, Chief Fagbamigbe (Olaniyi, 2013). It was reported that at least, 40 people were killed in Ondo (Isah, 2019b). Chief Omoboriowo himself managed to escape death. Chief

Adekunle Ajasin, the then incumbent Governor who contested the election under the Unity Party of Nigeria (UPN), disputed the outcome of the election. He challenged it in the Election Tribunal. At the end, the Tribunal dismissed the matter in favour of the Governor, Chief Ajasin and declared him the real winner of the election (Olaniyi, 2013). However, on December 31, 1983, General Muhammadu Buhari seized power in a military coup and emerged Head of State. General Muhammadu Buhari was later overthrown in another coup by General Ibrahim Gbadamosi Babangida who became the first military President of Nigeria (Isah, 2019b).

The transition presidential election in the short-lived Third Republic, perhaps, witnessed an election dispute that almost plunged the country into another civil war. The protracted transition programme of General Babangida, which started in August 1985, eventually reached its end on 12 June, 1993, with the Presidential election. Unlike other elections that preceded it, the 1993 election was unique in the sense that it was the only Nigeria's election that attracted the most international attention with a total of 3, 000 observers, out of which 135 were foreign observers that took part in the election across the country (Ojo, 2004). The election was contested by two candidates under the two-party system created through a military fiat by the Federal Military Government. The two parties were Social Democratic Party (SDP) and the Nigerian National Congress (NNC), one "a little to the left" and the other "a little to the right" (Diamond, 1991; Ihonvbere, 1992). The two presidential candidates that contested the election were Chief M.K.O Abiola (SDP) and Alhaji Bashir Tofa (NRC). Their running mates were Ambassador Baba Gana Kingibe and Dr. Sylvester Ugoh respectively. On the day of the election, voting generally went peacefully and orderly without reports of serious violence or casualties. The outcome of the election was eagerly anticipated (Ojo, 2004).

Partial release of the results by National Electoral Commission (NEC) indicated a victory for the candidate of the SDP, Chief M.K.O Abiola, with a decisive 58 percent of the total votes cast. After announcing the results for 14 states, the announcement for the remaining 16 states was

stopped based on an order issued by the military President, General Babangida. Subsequently, on 23rd June 1993 the Babangida's government suspended the NEC and annulled the election results (Ojo, 2004). The annulment of the election result threw the country into unprecedented political turmoil, especially in the South West. Political analysts observed that General Babangida's government annulled the election having noticed apparently that power would shift to the South. The reason was because, Chief M.K.O Abiola who was leading, based on the results already declared by NEC, was from the Southern part of the country (Olaniyi, 2013). In other words, in his calculations, Babangida anticipated that the victory would go the side of the North, which did not turn-out to be the case, hence the cancellation of the election results. Mass protests led by pro-democracy groups, such as National Democratic Coalition (NADECO) and Campaign for Democracy (CD), attended the annulment of the election, resulting in series of violence and loss of lives (Olaniyi, 2013; Ojo, 2004).

It was reported that, at least one hundred protesters were killed (Lewis, 1994). Another report had it that no fewer than one hundred and twenty (120) deaths were recorded while properties worth billions of Naira were destroyed (Olaniyi, 2013). Olaniyi (2013, p. 293) attests that "the crises which covered major cities in South-West like Lagos, Ibadan, Abeokuta and Akure witnessed wanton destruction of lives and properties". The violence that engulfed the country during the period led to mass exodus of Nigerians of the Southern ethnic extractions, especially the Igbo people, to their home regions (Ojo, 2004). The heat of the crisis and prolonged protests by pro-democracy forced General Babangida out of office, on August 26, 1993, as he eventually constituted an interim Government headed by Chief Ernest Shonekan and handed over power to it (Olaniyi, 2013). Based on a lawsuit instituted by Chief M.K.O Abiola, the assumed winner of the June 12, 1993 Presidential election, a Lagos High Court, on November 17, 1993, declared the Interim National Government (ING) put in place by General Babangida's government, as illegal. Following this, General Sani Abacha assumed power in a coup and dissolved all existing demo-

cratic structures retained by the Interim National Government, and thereby returned the country to a full-blown military dictatorship (Ojo, 2004). That was how the Third Republic, which was generally believed to have been conceived, was aborted; the era thus never existed in Nigeria's political history.

### **3 The Fourth Republic and High Incidences of Post-Election Dispute**

Since the dawn of the present democratic dispensation in Nigeria, most of the elections conducted had largely provoked petitions, as disputations had always sprang-up among participants over elections results. Apart from the 1999 elections which brought the country into the current Fourth Republic, the outcomes of other elections held in 2003, 2007, 2011, 2015 and 2019 respectively, were variously contested in at Election Petitions Tribunals. To begin with, the 2003 general elections generated a large number of post-elections petition cases filed in the various Election Petition Tribunals in different parts of the country. Precisely, "...at the end of the 2003 election, 560 petitions were filed" (Nigeria Civil Society Situation Room, 2017, p. 17). The Presidential election was contested by twenty (20) political parties among which the three (3) major parties were the Peoples Democratic Party (PDP), All Nigeria Peoples Party (ANPP) and All Progressive Grand Alliance (APGA). The presidential election, which was held on 19 April, 2003, was more like a case of contenders against the winner of the election, Chief Olusegun Obasanjo; his major co-contestants or opponents, General Muhammadu Buhari and Chief Chukwuemeka Odumegwu Ojukwu, presidential candidates of the All Nigeria Peoples Party (ANPP) and All Progressive Grand Alliance (APGA) respectively, separately challenged the results of the election at the Court of Appeal and later the Supreme Court (Alao, 2019).

Based on the election result, the declared winner, the then incumbent President, Olusegun Obasanjo (PDP) defeated his closets opponents with a large margin. He polled 24,456,140 votes, representing 61.94% of total votes cast. Behind him was Muhammadu Buhari (ANPP) who got

12,710,022 votes (32.19%), while Chukwuemeka Odumegwu Ojukwu (APGA) received 1,297,445 votes (3.29%) (African Election Database, n. d.). Generally, the results of the 2003 elections Presidential, National Assembly, Gubernatorial, were widely condemned by local and international observers and monitors who alleged that the electoral processes were marred by various sorts of electoral frauds and irregularities. The ANPP and the other 28 political parties that participated in the election alleged that the PDP engaged in massive rigging in different parts of the country. The PDP was accused by opposition parties of using its control of the securities agents to rig the elections, and the various reports of both the local and international election observers who monitored the elections on the days they took place seems to attest to the allegations (Ajayi, 2006).

For instance, Justice, Development and Peace Committee (JDPC) had a local team made-up of 30,000 agents that participated in the monitoring and observation of the elections. The JDPC acknowledges in its final reports that, while the presence of security forces helped to maintain law and order in some parts of the country, it however impacted negatively on the spirits and confidence of voters in many parts of the country (JDPC, 2003). In that report, the JDPC overtly stated thus:

*Security agents were out to collaborate with and protect the ruling party. In most of the polling stations they did nothing to prevent hijacking of ballot papers by political thugs ... Rigging was peacefully done in the form of ballot box stuffing by mainly PDP party agents collaborating with polling officials (JDPC, 2003, p. 31).*

The JDPC report also reveals the involvement of some INEC officials in rigging the election in favour of the ruling party in some parts of the country. As the report has it that:

*The ruling party in each of the two geo-political zones (South-South and South-East), with the connivance of some INEC officials and the security officers, unleashed fearsome intimidation against its opponents and succeeded in carrying out mas-*

*sive rigging of elections in a manner that was reminiscent of the dark ages (JDPC, 2003, p. 37).*

Similarly, the Citizens Forum (CF) also observed in its report that the elections were massively rigged and manipulated. As a result, it demanded President Obasanjo and the state governors to resign (Ajayi, 2004). International observer teams such as the European Union (EU), American and the Commonwealth share similar views with the local observers (Ajayi, 2006). The EU team was comprised of 118 observers. The team confirms that serious irregularities undermined the electoral process and marred the elections. The Washington-based National Democracy Institute (NDI) gave the similar report as other election observers about the elections. The NDI expressed that the election results lacked legitimacy, noting that there were observed incidences of ballot stuffing, rigging, voter intimidation, violence and fraud in some parts of the country, particularly in the South-East and South-South zones. On its part, the Commonwealth observer team which was made up of 22 members noted that the elections did not go well in some states. It stated that there was intimidation and break-down of proper electoral processes, specifically in parts of Enugu and in Rivers States (Alli et al., 2003). Giving the confirmations that the electoral processes were highly and massively manipulated, it was not surprising that petitions were instituted after the elections by the key opposing candidates, Ojukwu (APGA) and Buhari (ANPP). The results of the elections were controversial and thus became subject of litigation (Ajayi, 2006).

The candidate of APGA, Ojukwu filed a petition at the court and held that: Obasanjo was not qualified to contest the election; Obasanjo's return as President should be invalidated; a fresh election should be conducted; the Chief justice of Nigeria should take over as Head of State for three months pending the conduct of fresh election; and that the declaration of Obasanjo as winner was unconstitutional. The Court of Appeal which was presided over by Justice Isa Ayo Salami dismissed Ojukwu's petition. Ojukwu then took the matter to the Supreme Court, which also dismissed the petition on the ground that it lacked merit (Alao, 2019). On his part, General Muhammadu Buhari

of the ANPP also vehemently called for a repeat of the presidential and gubernatorial elections. He had been most aggressive and determined in engaging Obasanjo in legal battle over his victory in the election. Buhari was reported to have said, while addressing a press conference at the party's secretariat on the judgment of the Appeal Court, which had earlier upheld the victory of Obasanjo in the 2003 election by dismissing his (Buhari's) petition, that he would not give up no matter the time it would take to pursue his matter to its logical conclusion. In the end, he lost the case at the Supreme Court (Alao, 2019), as the court on December 2004 equally upheld the victory of Chief Obasanjo in the presidential election by confirming the judgment of the Federal Court of Appeal which earlier upheld his victory (Olaniyi, 2013).

With regards to the governorship elections of 2003, controversies arose in many states in relations to the validity of the elections results. The Election Tribunal in Adamawa State, for instance, nullified the victory of PDP's gubernatorial candidate, Governor Boni Haruna, and ordered a run-off election in 14 of the 21 local governments in the state. The Election Tribunal ruled that Boni Haruna, the declared winner, was "not validly elected". The tribunal stated that it was evident that thugs and security officials acted in favour of PDP to disallow agents of ANPP from performing their roles during the last general elections in various local government areas (Akinadewo, 2004, pp.1-2). The most notable among the post-electoral disagreements and controversies that followed the governorship election of 2003 was that of Anambra State. After the elections which were held on April 19, 2003, Dr. Chris Ngige of the PDP was declared the winner by the Independent National Electoral Commission (INEC).

Dissatisfied with results of the election as announced by INEC, Mr. Peter Obi, the candidate of APGA then filed a petition at the Anambra State Election Petition Tribunal. The tribunal judged the matter and held that Mr. Peter Obi, having won majority of the lawful votes cast at the election, was the winner of the election, and not Dr. Chris Ngige (Beson, Oluwa, Akinrefon & Ezema, 2009; Nigeria Legal Information Institute, n. d.).

The tribunal nullified the election of Ngige on 12th August, 2005 (Eze, Muogbo & Akinwunmi, 2005), and thus declared Peter Obi the winner of the election. Upon this, Dr. Chris Ngige appealed the judgment to the Federal Court of Appeal in Enugu. On March 16, 2006, the Court of Appeal sitting in Enugu dismissed the appeal lodged by Dr. Chris Ngige against the decision of the Anambra State Election Tribunal and upheld the decision of the Tribunal and declared Peter Obi of the All Progressive Grand Alliance (APGA) winner. Consequently, on the 17 of March, 2006, Mr. Peter Obi was sworn in as the Governor of Anambra State (Benson et al., 2009; Nigeria Legal Information Institute, n. d.). Worthy of note in the case between Chris Ngige (PDP) and Peter Obi (APGA) is that, though Obi succeeded in reclaiming his rightful electoral victory, the legal battle took almost three years before it came to an absolute end.

The total number of post-election petitions filed in 2007, after the general elections was more than double the number of petitions filed in 2003 (National Democratic Institute, 2008). As the National Democratic Institutes (2008, p. 40) recounts:

*Thirty days after the declaration of the result, the cut-of date for filling election petitions, 1,260 petitions had been filed, including eight that dispute the results of the presidential race, 106 challenging gubernatorial outcomes, 131 cases against Senate races, 291 related to the House of Representatives results, and 274 cases regarding state legislatures.*

The Presidential election was held on 21 April, 2007. The major candidates that contested the election were Umaru Musa Yar'Adua of the Peoples Democratic Party (PDP), Muhammadu Buhari of All Nigeria Peoples Party (ANPP), and Alhaji Atiku Abubakar of Action Congress (AC). The elections were notoriously remarkable for the massive rigging and frauds that attended the exercise across the country. Both local and international observers said the polls were "not credible" (Al Jazeera, 2008). The elections were described as the worst elections Nigeria ever conducted under the present democratic era owing to widespread irregularities in the electoral pro-



cesses. For instance, "Nigeria's biggest election monitoring group said the presidential poll was so flawed that it should be scrapped and held again" (BBC, 2007, para. 15).

In the same manner, European Union election observers described the elections as "the worst they had ever seen anywhere in the world, with rampant vote rigging, violence, theft of ballot boxes and intimidation" (CNN, 2011. para. 10). The US said it was "deeply troubled" by the elections which it described as "flawed". A United State Department of State's spokesman said the US hoped that the political parties would resolve any differences over the election through peaceful, constitutional means (BBC, 2007). Following the outcomes of the elections as announced by INEC, Umaru Musa Yar'Adua of the PDP emerged as the winner of the highly controversial presidential election. According to the results declared by INEC, Yar'Adua (PDP) won 24,638,063 votes, representing 69.486% of the total votes cast. General Buhari (ANPP) polled 6,665,299 votes (18.798%), while Alhaji Atiku Abubakar (AC) got 2,637,848 votes (7.439%) (Sahara Reporters, 2007).

Form the results above, the PDP candidate, Umaru Musa Yar'Adua who was arbitrarily awarded 24 million votes, even though it was clear that the number of Nigerians that voted in the election was not up to 10 million, came first, and was therefore declared winner by INEC, then headed by Professor Maurice Iwu. Muhammadu Buhari took the second position with 6 million votes, while Atiku Abubakar was awarded the third position with 2.4 million votes (Sahara Reporters, 2007). Muhammadu Buhari and Atiku Abubakar, presidential candidates of ANPP and AC respectively, challenged these elections results at the Presidential Elections Tribunal. Both of them approached the court, asking for the invalidation of Yar'Adua's victory in the election. In the end, however, Buhari and Atiku lost the case as the Presidential Elections Tribunal led by Justice James Ogebe on February 26, 2008, dismissed all the grounds upon which Muhammadu Buhari and Atiku Abubakars petition were premised, and upheld Yar'Adua's victory after passing a unanimous verdict that validated his election (Alao, 2019; Al Jazeera, 2008).

Governorship elections were held on 14 April, 2007, and the elections results were challenged in 35 of Nigeria's 36 states. As of April 18, nine of the 36 gubernatorial elections had been overturned by elections petitions tribunals (National Democratic Institute, 2008), some States. The same trend continued subsequently, as Governorship Elections Petitions Tribunals across the country released final judgments on the many petitions filed in relations to the 2007 governorship elections. In Ondo State, the Elections Petitions Tribunal on 25 August, 2008 nullified the election of PDP governorship candidate, Dr. Olusegun Agagu and declared the candidate of Labour Party (LP), Dr. Olusegun Mimiko as the lawful winner of the April 14 election (Sahara Reporters, 2008). As reported, "the five-man tribunal led by Garba Nabaruma, in its one hour, 15 minutes judgments, also ordered that Mimiko should be sworn in immediately as the governor of the state because he won the valid votes in 12 out of the 18 local governments in the state" (Sahara Reporters, 2008, para. 2).

Similarly, on 11 November, 2008, the Court of Appeal in Benin City upheld the verdict of the Edo State Elections Petitions Tribunal and declared Comrade Adams Oshiomole, the governorship candidate of Action Congress (AC) in 2007 gubernatorial contests, winner of the election and Governor of Edo State. It, thus, overturned the election of Professor Oserhiemen Osunbor, candidate of the Peoples Democratic Party (PDP), who had been in office as the Governor of Edo State for a cumulative period of 17 months and 11 days. The Court's decision was premised on numerous irregularities that took place during the voting (Vanguard, 2010; Vanguard, 2011). On 15 October, 2010, the Court of Appeal sitting in Ilorin nullified the election of the Ekiti State Governor, Segun Oni, who contested the 2007 gubernatorial election on the platform of the Peoples Democratic Party (PDP). In its verdict, the Court declared his opponent, Mr. Kayode Fayemi, the governorship candidate of Action Congress (AC), legitimate winner of the election and ordered him to be sworn in immediately as the Governor of the State (Vanguard, 2010). This was after Segun Oni had spent almost three years in office as the Executive Governor the State.

On 26 November, 2010, the Court of Appeal

in Ibadan, capital of Oyo State, overturned the election of Osun State Governor, Olagunsoye Onyilola, the candidate of the Peoples Democratic Party (PDP) in the April 14, 2007 gubernatorial race, and declared Engineer Rauf Aregbesola, candidate of the Action Congress of Nigeria (ACN) as the duly elected Governor, with the highest number of the lawful votes cast (Vanguard, 2010). The same pattern of event unfolded in many other states, including Delta State, in Emmanuel Uduagah versus Great Ogboru (November 9, 2010), and Rivers State, in Rotimi Amaechi versus Celestine Omehia (October 26, 2007) (Vanguard, 2010). The above scenario discernibly reveals that the 2007 general elections were, indeed, the most flawed elections in the history of Nigeria. Most of the flaws that accompanied the electoral processes were alleged to have been orchestrated by the then ruling Peoples Democratic Party (PDP), in its desperation to retain or capture majority of the states. Indeed, some scholars argued that the 2007 general elections were poorly conducted and manipulated in unprecedented manners to serve the interests of the ruling PDP (Aiyede, 2007; Ojo, 2007; Suberu, 2007a, 2007b).

The 2011 general elections also saw a high rate of post-elections petitions filed in elections petitions tribunals across the country. However, the number of elections petitions that emerged from the 2011 elections was far less than the number of petitions related to the 2007 elections. The then Chairman of the Independent National Electoral Commission (INEC), Prof. Atahiru Jega, acknowledged this fact at a two-day international conference held in Abuja on the theme, "Emerging Electoral Jurisprudence in Africa", where he was said to have stated that the 2011 general elections recorded the least number of election petitions with a total of 733 (Nigerian Bulletin, 2015). Some of the petitions were dismissed at the pre-hearing stage, while few of the elections were upturned (Ojo, n. d.). Represented at the conference by a National Commissioner, Dr., Ishmael Igbani, Prof. Jega offered a breakdown of the petitions as followed: Presidential petitions 2, Governorship 53, Senatorial 90, House of Representatives 198, State Houses of Assembly 390 (Nigerian Bulletin, 2015). Validating Jega's claim, Ojo (n. d.) affirms that, while the 2007 elections generated a whop-

ping 1,750 petitions, the 2011 produced only 733 petitions filed at the various elections petition tribunals in the country. This implies that, comparatively, the 2011 general elections were more credible than the preceding elections, especially the 2007 elections. However, the point remains that it was not devoid of election petitions, despite the wide commendations it attracted from both the domestic and foreign fronts.

The elections were held between April 9 and May 6, 2011. The presidential elections held on April 16, while gubernatorial elections were conducted on April 26. Although the elections were not absolutely perfect, there were concrete improvements. The 2011 elections marked a departure from previous elections, particularly the 2007 elections, that Nigeria had earlier conducted under the on-going democratic experiment, which were heavily flawed with irregularities. The electoral umpire, INEC demonstrated observably strong determination to end Nigeria's ugly history of fraudulent and badly conducted elections, and strove to uphold the expectation of Nigerians to restore and sustain the democratic process in the country (Ojo, n. d.). INEC's performance at the 2011 elections was widely commended by various international and local elections observer groups as a dramatic improvement on previous elections, with prospects for democratic development in the country. For example, in its final report on the 2011 general elections, the European Union Elections Observation Mission (EU EOM) states thus:

*Overall, the legal framework for the 2011 General Elections provided an adequate basis for the conduct of democratic elections in accordance with international principles and with international instruments ratified by the Federal republic of Nigeria (EU EOM, 2011, p. 1).*

In the same vein, Project 2011 Swift Count, comprising of the Federation of Muslim Women Association of Nigeria (FOMWAN), Justice Development and Peace Commission (JDPC)/Caritas, Nigerian Bar Associations (NBA) and Transition Monitoring Group (TMG) also concluded that:

*...the Nigerian voting populace were provided*

*with opportunity to exercise their franchise and in general their votes were counted. The April general elections were conducted within the framework of and conformed to the Nigerian Constitution, the Economic Community of West African States (ECOWAS) protocols on Democracy and Good Governance, and the African Union (AU) Declaration on the Principles Governing Democratic Elections in Africa (Project 2011 Swift Count, 2011, p. 1).*

The reports of other observer groups that participated in the election monitoring, including the Commonwealth, African Union (AU), Economic Community of West African States (ECOWAS) and International Republican Institute (IRI), were in tandem with the foregoing reports (Ojo, n. d.).

The point, however, is not that conducts of the 2011 general elections were completely devoid of imperfections, as earlier noted. For instance, while the United States Department of State acknowledged that the elections were successful and a substantial improvement over 2007 elections, it added that vote rigging and fraud also occurred during the elections (Carson, 2011). Also, Smith (2011) stated that there were reports of certain irregularities, such as underage voting and snatching of ballot boxes in some parts of the country. It was not surprising that the post-election period also witnessed disputations and litigations over the outcomes of the elections. The popular candidates for the presidential election were the then incumbent President Goodluck Ebele Jonathan of the Peoples Democratic Party (PDP), General Muhammadu Buhari of Congress for Progressive Change (CPC), and Malam Nuhu Ribadu of Action Congress of Nigeria. However, Muhammadu Buhari was seen as the major opposition to Jonathan than Nuhu Ribadu. At the end of the election, INEC announced Goodluck Ebele Jonathan (PDP) as the winner of the presidential race. Based on the results announced by INEC, the declared winner, Goodluck Jonathan won 22,616,416 votes. Next to Jonathan was Muhammadu Buhari with 12,250,853 votes. Malam Nuhu Ribadu who came third had 2,079,151 votes (Reuters, 2011).

After the announcement of the election re-

sults, the CPC, filed a petition demanding the court to nullify the results of the election, in which President Goodluck Jonathan was declared winner with almost 60% of the total votes cast. The ICP premised its argument for the cancellation of the election results on the ground that widespread irregularities bedeviled the election. It specifically, prayed the court to cancel the results of the election in the Federal Capital Territory, Abuja and twenty-four (24) states, including all seventeen (17) states in the South and seven (7) in the North, namely, Adamawa, Benue, Kaduna, Kwara, Nassarawa, Plateau and Sokoto States. The CPC also alleged INEC and its Chairman, Attahiru Jega of having manipulated the voter register to the advantage of PDP's candidate, arguing that ballots were illegally diverted to the wrong polling units and used for ballot stuffing. The CPC requested INEC to organize fresh elections between itself (CPC) and the PDP, and that a forensic test should be conducted on the DDC machines and ballot box (National Democratic Institute, 2012).

Justice Ayo Isa Salami, President of the Court of Appeals was the one who chaired the panel of the presidential election tribunal. He delivered a major ruling during the pre-hearing session, which allowed the CPC to inspect election materials inclusive of biometric data gathered in the voter registration process. When Justice Salami was suspended in a controversial circumstance, over a matter not related to the 2011 presidential election litigations, he was succeeded by Justice Mohammed Garba. Justice Garba made a clarification of the ruling by Salami, which warranted that the CPC would only examine election materials but was not to take any copies. Taking copies of election materials, as Attahiru Jega, the INEC Chairman had argued, would pose a threat to the security of the nation and undermine the rights of voters. In view of this, the CPC was prevented from submitting election materials as evidence in its petition. After nearly four months of appeals, the Supreme Court dismissed the case on December 28, 2011 and upheld Goodluck Jonathan's election victory (National Democratic Institute, 2012). Jonathan was then sworn in on May 29, 2011 as Nigeria's President on a fresh mandate, for a new four-year period in office.

Regarding gubernatorial elections, it is pertinent to note that the April 26, 2011 did not hold in ten (10) states, namely, Adamawa, Anambra, Bayelsa, Cross River, Edo, Ekiti, Kogi, Ondo, Osun and Sokoto. This was because the tenures of the governors of these states had not elapsed, as they came into office after legal battles that led to the nullification of the elections of the former incumbent governors. Thus, in the above named ten states, governorship elections were only held after the four-year tenure of the governors ended. Governorship elections only held in twenty-six (26) states. General governorship elections held on April 26, 2011, before the second one which was held in Kaduna and Bauchi States on April 28, 2011 (Ndujihe, 2012). This difference among states of the federation, in terms of the period of conducting governorship elections, it must be noted, is the effect of tribunals' verdict on litigations that arose from electoral disputes at state levels in previous elections. Till the time of this writing, the date for the conduct of governorship elections in Nigeria still varies among some states.

After the elections however, state election petition tribunals upheld the election results in most states. Among some other states, for example, Rochas Okorochoa, gubernatorial candidate of the All Progressives Grand Alliance (APGA) had his victory in the April 26, 2011 governorship election in Imo State, challenged in court by the then incumbent Governor of the state, Chief Ikedi Ohakim of the Peoples Democratic Party (PDP). The tightly contested governorship election of April 26, 2011 in Imo State did not produce a clear winner. As a result, a supplementary election was conducted on May 6, 2011 in some local governments where it was said the April 26 election went inconclusive. At the end, Okorochoa narrowly emerged victorious and was declared the winner by INEC. Upon this, Chief Ohakin engaged Rochas in a long legal battle as he challenged the elections results in court. However, on March 2, 2012, the Supreme Court affirmed Rochas Okorochoa as the winner of the election. Justice Sylvester Ngwuta who judged the case struck-out PDP's appeal against Okorochoa for lack of merit, and nullified the judgment of the Court of Appeal, which was the basis of the appeal on, the ground that the appellate court gave rea-

sons for the judgment outside the 60 days allowed under Section 287 of the 1999 Constitution (as amended) (Ndujihe, 2012).

In some states, tribunals nullified election results and required INEC to conduct re-run elections. The case of Kebbi State was among the most notable ones during the period. The Appeal Court sitting in Sokoto State, on December 28, 2011, had overturned the judgment of the Kebbi State Governorship Election Petition Tribunal, which had earlier nullified the election of Kebbi State Governor, Alhaji Uman Dakingari, the gubernatorial candidate of Peoples Democratic Party (PDP) in the 2011 election. Led by Justice Laraba Mohammed, the Kebbi State election tribunal nullified Dakingari's election on November 13, 2011 and ordered that a fresh election be conducted within 90 days. Alhaji Usaman Dankingari was dissatisfied with the tribunal's decision and hence, he challenged it at the Appeal Court. Justice Amiru Sanusi, who judged the case at the Appeal Court in Sokoto on December 29, 2011, ruled in favour of Alhaji Dakingari and quashed the judgment of the lower tribunal, thereby affirmed Dakingari's election as Governor of the State. The Appeal Court dismissed the cross-appeal by Congress for Progressive Change (CPC) and its gubernatorial candidate, Alhaji Abubakar Mallam, wherein he asked the Appeal Court to declare him the duly elected governor of the state, for lack of merit (El-Kurebe, 2011).

The verdict of the Appeal Court, however, was unacceptable to the Kebbi State CPC. Therefore, led by the party's state Chairman, Alhaji Suleiman Nasiha Zuru, the CPC took the matter to the Supreme Court. The Supreme Court, in turn, quashed the decision of the Sokoto State Division of the Appeal Court, which had earlier upturned the judgment of the Kebbi State Election Petition Tribunal and upheld the election of Alhaji Dakingari, Kebbi State Governor. The apex court nullified the election of Dakingari and ordered INEC to conduct fresh governorship election in the state within 90 days, counting from the date of the judgment. The decision of the Supreme Court was premised on the ground that the Sokoto State Division of the Appeal Court, which had upturned the judgment of the Kebbi State Election Petition Tribunal, failed to give reasons for

its judgment. The Supreme Court held that it was wrong for the appellate court to have given its judgment within the constitutionally stipulated period for determining such cases, and asserted that such action ipso facto rendered the judgment nugatory (El-Kuereb, 2012a). As Justice Walter Onnoghen maintained in his judgment:

*It is obligatory for the Court of Appeal and the Supreme Court to dispose an appeal within 60 days from the date of the decision being appealed, since section 285(7) implies that both the decision and the reasons for that decision, must be completed within the stipulated time. Any decision without a reason is no decision at all. The judiciary has no option than to work within the time frame provided by the law (El-Kurrebe, 2012a, para. 12).*

As ordered by the Supreme Court, INEC conducted a re-run governorship election in the state on March 31, 2012. At the end, Alhaji Dakingari won the election and was declared the winner by INEC. As the results revealed, Dankingari (PDP) grabbed a total of 875,492 votes to defeat his major opponent, Alhaji Abubakar (CPC) who received 17,918 votes (*Channels Television*, 2012).

The 2015 general elections were the fifth round of elections that Nigeria conducted since her return to democratic rule in 1999. The elections held on March 28, 2015 and April 11, 2015 respectively. While the Presidential and National Assembly Elections took place on 28th March, the Governorship and State Houses of Assembly elections were conducted on 11th April. Domestic and international observers described the elections as credible and a major improvement on the 2011 elections. Two things were considered to be symbolic about the 2015 election: first, it saw the defeat of a ruling party and the emergence of candidate of opposition party as winner at the federal level. Second, technologies the PVCs and SCRs were deployed in the electoral process, which significantly impacted on the credibility of the electoral. Despite the progress recorded, the electoral processes witnessed some challenges, and thereby resulted in electoral litigations. Record reveals that more than 600 election petitions were filed at the various election petition tribunals across the country after the elections, by candi-

dates who lost Governorship, Senatorial, House of Representatives and State Houses of Assembly elections (Nigeria Civil Society Situation Room, 2017).

The two major candidates for the presidential election were the incumbent President Goodluck Ebele Jonathan of the Peoples Democratic Party (PDP) and General Muhammadu Buhari of the All Progressive Congress (APC), who was the principal opposition. At the end of the presidential election, the opposition party's (APC) candidate, Muhammadu Buhari, emerged the winner. The APC also won a large number of seats in the upper and lower chambers of the National Assembly as well as governorship elections in most states across the country. Prior to 2015, such a sweeping victory had not been witnessed in the history of elections in Nigeria. More fundamental to the rare experience of the defeat of an incumbent President by an opposition, was the display of the spirit of sportsmanship and acceptance of defeat by former President Goodluck Jonathan, the PDP candidate. For this reason, there was no electoral disputation and litigation after the 2015 presidential election (Nigeria Civil Society Situation Room, 2017).

This post-election development also contributed tremendously to making the 2015 presidential election highly significant in Nigeria's political experience. The winner of the election, Muhammadu Buhari defeated incumbent President Jonathan win over 2.5 million votes. Buhari (APC) won a total of 15,424,921 votes, while Jonathan (PDP) received 12,853,162 votes. Following declaration of the results by INEC, former President Goodluck Jonathan telephoned his rival, Muhammadu Buhari and conceded defeat (BBC, 2015). In a statement credited to him, Jonathan stated thus: "I promised the country free and fair elections. I have kept my words" (BBC, 2015, para. 5). He (Jonathan) sent his "best wishes" to Muhammadu Buhari and "urged those who may feel aggrieved to follow due process... in seeking redress" (BBC, 2015, para. 6). These statements by former President Jonathan remain remarkable in their own rights, in the history of elections in Nigeria, having come from an incumbent who had just lost a re-election bid. As earlier noted, this was the first time in the history of

elections in Nigeria since the return to democratic rule in 1999, that no petition was filed to challenge the outcome of Presidential election (Nigeria Civil Society Situation Room, 2017, p. 27).

With respect to the governorship elections of 2015, however, many petitions were filed at election petitions tribunal across the states of the federation. Specifically, in 2015, governorship elections were conducted in 29 States of the Federation, while State Assembly elections held in 36 states (Idowu, 2015). Out of the 29 states, as record shows, there were petitions challenging the results of governorship in 21 states. These states include Abia, Akwa Ibom, Delta, Benue, Ebonyi, Enugu, Gombe, Imo, Kaduna, Katsina, Kebbi, Kwara, Lagos, Nasarawa, Ogun, Oyo, Plateau, Rivers, Taraba, Yobe, and Zamfara (Nigeria Civil Society Situation Room, 2017). Majority of these petition cases progressed from the lower tribunals, that is, States Governorship Election Petition Tribunals in the states to Courts of Appeal, through to the Supreme Court, where they were finally put to rest at various times. In all the cases, the Supreme Court upheld the election of candidates earlier declared winners by the nation's election umpire, INEC.

In Abia State, for instance, the two major contestants for the gubernatorial office were Okezie Ikpeazu - Peoples Democratic Party (PDP) and Alex Otti All Progressive Grand Alliance (APGA). After the election, INEC declared the candidate of PDP, Mr Ikpeazu the winner of the election, having polled a total of 264,713 votes to defeat Alex Otti, candidate of APGA who gained 180,882 votes (Channels Television, 2015). Mr. Otti filed a petition at the Abia State Governorship Election Tribunal in Umuahia, challenging the outcome of the election. He argued that Okizie Ikpeazu who was declared winner, was not duly elected by majority of lawful votes. Otti alleged that the electoral process was marred by numerous irregularities including over-voting, intimidation of voters, rigging, failure to collate results and non-use of the Smart Card Readers (SCRs) (Nigeria Civil Society Situation Room, 2017). In the end, the tribunal dismissed his case on the ground that he failed to prove his allegations of crime and over-voting beyond reasonable doubt. Dissatisfied with the verdict of the state gover-

norship election tribunal, Mr. Otti appealed the judgment. In the end, the Appeal Court sitting in Owerri, headed by Justice Oyebisi Omoleye, on November 3, 2015, quashed the decision of the lower tribunal and decided the case to the advantage of the petitioner, Alex Otti (APGA), and thereby declared him the lawful winner of the April 11 and April 25 supplementary elections in Abia state (Abdulmalik, 2015).

The Appeal Court overturned the judgment of the lower tribunal and the said victory of Mr. Ikpeazu of the PDP at the election, on the ground that the appellant, Alex Otti of APGA was able to successfully establish his allegation of over-voting. The appellate court also held that Mr. Otti scored the majority of lawful votes cast at the election (Nigeria Civil Society Situation Room, 2017). Okezie Ekpeazu was dissatisfied with the verdict passed by the Appeal Court, hence, he appealed to the Supreme Court. In the end, the Supreme Court overturned the judgment of the Appeal Court and upheld the earlier verdict of the Abia State Governorship Election Tribunal on the ground that Alex Otti of APGA failed to prove his grave allegations of crime held against Okezie Ikpeazu of the PDP as well as to establish the claim of over-voting during the election. The apex court also held that it was unlawful for the State Returning Officer to have cancelled election results in that he had no such right. The court, therefore, validated the election of Okezie Ikpeazu, PDP candidate, as the Governor of Abia State (Okakwu, 2016; Nigeria Civil Society Situation Room, 2017).

Other states where the Supreme Court upheld the elections of governorship candidates originally declared winner by INEC, after a long legal battle include but not limited to the following: Akwa Ibom, in Umana Okon Uwana (APC) versus Udom Gabriel Emmanuel (PDP) (see Okakwu, 2016b); Benue, in Samuel Ortom (APC) versus Terhemem Tarzoo (PDP) (see Okakwu, 2016c); Delta, in Ifeanyi Authru Okowa (PDP) versus Olorogun Ogheneteg Emerhor (APC) and Great Ogboru (PDP) (see Ahon & Nnochiri, 2016); Enugu, in Ifeanyi Lawrence Ugwuanyi (PDP) versus Okey Ezea (APC) (see Okafor, 2018); Kebbi, in Abubakar Atiku Bagudu (APC) versus Bello Sarkin Yaki (PDP) (see Channels Television, 2015b); Zamfara, in Abdulazeez Abubakar Yari

(APC) versus Sani Abdullahi Shinkafi (APGA) (see Ugwuanyi, 2016); Yobe, in Ibrahim Gaidam (APC) versus Adamu Maina Waziri (PDP) (see Ikhilae, 2017); Oyo, in Abiola Adeyemi Ajimobi (APC) versus Rashidi Adewole Ladoja (Accord Part) (see Odesola, 2016); and Lagos, in Akinwunmi Ambode (APC) versus Joseph Olujimi Kolawole Agbaje (PDP) (see Adebowale, 2015). In a nutshell, none of the governors'- elect in 2015, whose victories were challenged in courts lost their elections. Nigeria Civil Society Situation Room (2017, p. 33) confirms this fact as it holds that "...all the appellants who challenged the conduct of the governorship elections in their respective States lost their appeals, as the Supreme Court upheld all the disputed Governorship elections conducted by INEC on April 11, 2015".

Like the preceding elections, the just concluded 2019 general elections have also produced a large number of petitions challenging the outcomes of the various elections results in courts across Nigeria. As of April 4, 2019, the number of petitions that emerged from the 2019 polls stood at 735, but rose to 766 as of April 16, 2019 (Yahaya, 2019). Until the time of this writing, the breakdown of petitions filed, as released by the Court of Appeal, is as followed: Presidential election 4; Governorship 54; Senate 207; House of Representatives 101; State Houses of Assembly 402. The four presidential petitions challenging the victory of President Muhammadu Buhari and his party, All Progressive Congress (APC) at the February 23, 2019 election were filed by candidates of four political parties that contested the presidential office. These include: Alhaji Atiku Abubakar of Peoples Democratic party (PDP); Ambrose Owuru of the Hope Democratic Party (HDP); Aminchi Habu of the Peoples Democratic Movement (PDM); and Geff Ojinika of the Coalition for Change (CC) (Yahaya, 2019). Among these however, the petition of the PDP presidential candidate, Alhaji Atiku Abubakar, who was Muhammadu Buhari's key opponent during the election, remains the most popular, and thus attracts the greatest attention of close watchers and followers of political events in Nigeria, from within and outside the country.

According to the results as announced by INEC, President Buhari (APC) won the Febru-

ary 23, 2019 presidential election with a total of 15,191,847 votes, whereas his closest rival Atiku Abubakar (PDP) gained 11,262,978 votes (Toromade, 2019). Atiku, being dissatisfied with the declaration of the incumbent President Muhammadu Buhari as the winner, is as of the time of conducting this research, challenging the outcome of the election at the Court of Appeal. He claims that the election was rigged to the advantage of Muhammadu Buhari (Sahara Reporters, 2019). Atiku Abubakar also claims that, according to an internal compilation of results he obtained from INEC's server, he won the election with over 1.6 million votes than Buhari (Toromade, 2019). At the time of this writing, the date for the hearing of the petition had yet not been fixed. The Presidential Election Petitions Tribunal was still being expected to declare the date for the pre-hearing session on the PDP and Atiku's petition. It is during the pre-hearing session, which according to the Electoral Act, 2010 (as amended) must be completed within 14 days, that the tribunal would fix "clear dates" for hearing the petition. In accordance with law, the tribunal has 180 days from March 18, 2019, the date of filing of the petition, to hear and deliver judgment on the case (Adesomoju, 2019).

The governorship polls of 2019, as earlier observed, have so far generated a total of 54 petitions filed at states election petitions tribunals. Some of the states where tribunals have received petitions challenging the victories of governors-elect in the recent 2019 elections include Kano (North-West), Gombe (North-East), Benue (North-Central), Imo (South-East), Delta (South South), Oyo State (South-West) and a host of others. In Kano, the PDP and its governorship candidate, Abba Yusuf, have filed a petition at the governorship election petitions tribunals twenty days after INEC declared Governor Abdullahi Ganduje, candidate of the APC in the election, the winner of the March 23, 2019 governorship election in the state. The PDP and its governorship candidate, Abba Yusuf are challenging the acclaimed victory of Governor Ganduje at the tribunal. The PDP posits that its candidate, Abba Yusuf, was the actual winner of the election and describes any other result as a nullity. The party and its candidate are also arguing that the

supplementary election held by INEC was unconstitutional and unlawful. Moreover, the PDP alleges that the declaration of the March 9 election as inconclusive provided the APC with an opportunity to rig its candidate, Governor Abdullahi Ganduje, back to power (Punch, 2019).

In Gombe State (North-East), where INEC declared Muhammad Yahaya, the governor-elect and candidate of the All Progressive Congress (APC), as the winner of the gubernatorial election, three (3) petitions have been filed at the Governorship Election Petition Tribunal in the state with respect to the election (Channels Television, 2019). The three petitions were filed by Jungudu Adamu Jungudu for the People for Democratic Change (PDC), Muhammad Auwal Ibrahim for the All Grassroots Alliance (AGA), and Aliyu Adamu of the Alliance for Social Democrats (ASD). The petitioners are challenging the governorship election in which Inuwa Yahaya of the APC emerged winner. They prayed the governorship election petition tribunal, headed by Justice M. B. Tukur, to compel INEC to grant them (petitioners) access to all the materials used for the governorship election in the state, and to allow them to have certified true copies of the documents and elections results (Africa Independent Television, 2019; Channels Television, 2019). In response, "the tribunal...granted the application of the petitioners asking for the materials, including the certified true copies, from INEC for inspection" (Africa Independent Television, 2019, para. 4). However, the three petitioners - Jungudu Adamu Jungudu (PDC), Muhammad Auwal Ibrahim (AGA), and Aliyu Adamu (ASD) subsequently prayed the tribunal to allow them to withdraw their petitions due to health challenges and inability to fund their petitions (Scan News, 2019).

In Benue (North-Central), Emmanuel Jime, governorship candidate of the All Progressive Congress (APC) and his party have filed a petition challenging the victory of the incumbent Governor Samuel Ortom and his party - Peoples Democratic Party (PDP), at the just concluded governorship election in the state. Jime and his party APC are contending, in their petition, that Governor Samuel Ortom whom the Independent National Election Commission (INEC) declared

winner after the March 23, 2019 supplementary election, did not win the lawful required votes to retain his office as the Governor of the state for a second term. He (Jime) also alleges that the election of Ortom was invalid on the ground of non-compliance with the provisions of the Electoral Act, 2010 as amended (Daily Trust, 2019).

In Imo State (South-East), Uche Nwosu, the governorship candidate of the Action Alliance (AA) in the governorship election, has petitioned the Imo State Governorship and House of Assembly Tribunal, challenging the election of Emeka Ihedioha of the Peoples Democratic Party (PDP) who INEC announced as the winner of the March 9, 2019 election. Nwosu has asked the tribunal to nullify the election of Ihedioha. Among other things, Nwosu, in his petition, is demanding the tribunal to:

*Determine and thus declare that Ihedioha did not satisfy the requirement of section 179(2)(b) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), having failed to poll not less than one-quarter of all the votes cast in at least two-third of the Local Government Areas in Imo State at the governorship election held on March 9, 2019 (Sahara Reporters, 2019b, para. 8).*

In Delta State (South-South), Great Ogboru, candidate of the All Progressive Congress (APC) in the 2019 governorship election is currently challenging INEC's declaration of the incumbent Governor Ifeanyi Okowa, candidate of the Peoples Democratic Party (PDP), as the winner of the March 9 governorship election in the state. The APC's candidate, Great Ogboru, rejected the results of the election, alleging that the election's process was bedeviled by massive irregularities, such as rigging, vote buying, snatching of ballot boxes and other malpractices orchestrated by the PDP (Sahara Reporters, 2019c). In Oyo State (South-West), the governorship candidate of the All Progressive Congress (APC), Adebayo Adedun has filed a petition at Oyo State Election petitions Tribunal, asking for the nullification of the victory of the governor-elect, Seyi Makinde, Peoples Democratic Party's (PDP) candidate, whom INEC declared winner of the March 9, 2019 governorship election in the state (Sahara Reporters,



2019d). Like the presidential election petition, most of the 2019 governorship election petitions filed at tribunals across the country are still ongoing, as of the time of writing this chapter.

#### **4 Implications of the High Incidences of Post-Election Dispute for Nigeria's Democracy**

Elections, no doubt, especially in growing democracies are rarely conducted without irregularities in the processes, which often pave the way for disputes among concerned candidates and political parties over the integrity of election results. Consequently, post-election litigation is regarded as an aspect of the electoral process, as it forms part of the follow-up events to any elections in both old and new democracies. However, based on the documented evidences presented in the analysis of the trend of election petition cases in Nigeria's Fourth Republic, in the preceding section, it becomes clear that the country's experience transcends the normal; Nigeria currently witnesses high rates of post-election litigations. This state of affair is highly worrisome as it has certain implications for the country's democracy, which include the following arguments.

#### **5 Indication of Weakness of Electoral Process and Institutions**

The current spate of post-electoral disputations and litigations in Nigeria speaks volume of the state of the health of the country's electoral process and institutions. The trend shows that the process and institutions for the conduct of elections in Nigeria are still substantively weak and lacking in the needed capacity to conduct more credible, transparent, and free and fair elections that would be devoid of disputations and controversies. Nyeson Wike, Rivers State Governor, is in agreement with the foregoing position, as he poignantly argues that "...the rising incidence of litigation to resolve electoral issues is an indication of the failure of the electoral process" (Akasike, 2018).

With the inherent weakness of the electoral process and institutions, elections in Nigeria, even the so-called free and fair elections conducted so

far, are characterized by grave irregularities and undemocratic practices which often render the processes and outcomes incredible and unacceptable, thereby leading to litigations in search of redress by aggrieved parties and candidates, as may be concerned. Some of these irregularities include ballot-box snatching, ballot stuffing, vote buying, under-age voting, over-voting, thuggery, intimidation and harassment of opponents. The Nigerian electoral system and institutions have so far been unable to contain or manage these elements in such a manner that they are unable to impact on the credibility of elections and their outcomes.

#### **6 Waste of Financial and Time Resources**

Although electoral litigation is a means of claiming political rights, it is expensive and time consuming, and therefore amounts to waste of limited financial and time resources on the parts of the candidates and political parties involved. Former INEC Chairman, Professor Attahiru Jega, validates this assertion as he contends, that electoral and political litigation in Nigeria have turned out to be very expensive and time consuming. As a result, he holds that there should be an effective alternative electoral dispute resolution mechanism, rather than resorting to judicial process (Nigerian Bulletin, 2015). This is true, in view of the state of the poor financial conditions of Nigerian political parties and their candidates.

Where an incumbent President or Governor is involved in an electoral suit, either as a petitioner or respondent, there is no doubt that him/her would resort to public treasury to fund the litigation. This way, the masses are being shortchanged, as certain proportion of the scarce resources earmarked for the delivering of essential developmental goods and services to the electorates are often diverted to the pursuit of personal or associational interest, as against public interest. In the same vein, precious time that ought to be devoted to planning and designing of policies and programmes that would engender democratic dividends to the masses is also wasted at courts/tribunals, especially as most electoral

cases in Nigeria could linger up to two to three (2-3) years, as experience has shown.

## 7 Unevenness in Time-Schedule for Conduct of Governorship Election

The rampant post-election petitions in the being experienced in Nigeria under the current democratic experience, has put some states off-cycle, in terms of the date for the conduct of gubernatorial election across the states of the federation. No doubt, in many states, electoral litigations and final verdicts of tribunals had resulted in nullification of election and ousting from office of already sitting governors, mostly after the usual long period of legal battle that eats-up major part of the stipulated four-year tenure of office. Giving that the law specifies that the full four-year tenure of office of the succeeding governorship candidates who obtained victory at the tribunals over disputed election, must elapse before the next gubernatorial election is held, affected states now conduct their governorship elections at different dates other than the dates schedule for it within the general election period, as may be scheduled INEC.

To lend credence, because of this phenomenon, gubernatorial elections were not held in ten states - Adamawa, Anambra, Bayelsa, Cross River, Edo, Ekiti, Kogi, Ondo, Osun and Sokoto, during the 2011 general elections (Ndujihe, 2012). Similarly, during the 2015 general elections, governorship elections were not conducted in six of the thirty-six states in Nigeria, namely Anambra, Bayelsa, Edo, Ekiti, Ondo and Osun (The Guardian, 2015; Idowu, 2015). Also, in the just concluded 2019 general elections, governorship elections did not hold in seven states, namely, Anambra, Bayelsa, Edo, Ekiti, Kogi, Ondo and Osun (Deji, 2019). This unevenness leaves more than deserved for the effective and efficient workings of the Nigerian electoral system in general.

## 8 Proof of the Slow Pace of Growth of Nigerian Democracy

Perhaps, the overall and most decisive implication of the high incidence of post-elections petitions produced so far by all the elections Nigeria has

had in the prevailing political dispensation, including the recent 2019 general elections, is that the country's democracy is not developing at the expected pace after twenty (20) years of the practice of the system of governance. As acknowledged in the introductory part, the Independent National Electoral Commission (INEC) (2015) posits that the rate or number of post-election litigations is one major yardstick for measuring the pace of democratic development in countries. According to it, a democracy with few or low rate of post-election petitions is regarded as having been more consolidated than one with high rate or number of post-election petitions (INEC, 2015). Evaluating Nigeria's democracy in light of this parameter, thus, vividly indicates that it is not growing at a rate commensurate with the number of years that the country has upheld the practice, since it was re-introduced in the country in 1999.

## 9 Conclusion and Recommendation

Since the return to democratic rule in 1999, all elections Nigeria has conducted, including the recent 2019 general elections, have on the average, produced varying large numbers of petitions filed at election petitions tribunals at various jurisdictions in the country. The high rates of petitions being witnessed in the current democratic dispensation in the country is largely the consequence of disputes arising from the outcomes of flawed elections into various elective positions. The electoral process in Nigeria is besieged by certain recurring irregularities and/or electoral malpractices, such as rigging, snatching of ballot boxes, ballot stuffing, under-age voting, over-voting, vote buying, thuggery, intimidation and harassment of opponents, among many others. The persistent perpetration of these electoral vices by stakeholders in elections, mainly the political parties, has continuously provoked disputations and contestations over the credibility of elections among participating candidates and political parties.

The large numbers of post-election petitions filed to resolve electoral matters after every election period in the Fourth Republic, is therefore an effect of the flaws in the electoral process. The phenomenon is unwholesome and inimical to Nigeria owing to certain consequences it por-

tends for the country's democratic practice, as demonstrated in the main body of the study. In view of this, the study is of the opinion that Nigeria needs to expedite actions towards curtailing the high rates of post-election petitions being produced by elections in the present democratic experiment. As a way out of the predicament, the study recommends that, Nigeria must revamp and strengthen her electoral process and institutions to conduct highly credible, transparent, free and fair and acceptable elections in future times, so as to reduce the spate of elections-related petitions to the barest minimum and avert the accompanying effects on the country's democracy.

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