

To cite this article: Johnkennedy Tersoo Ikyase, Tukura Nashuka Tino & Bala IRANYANG Shamaki (2022). ELECTORAL TRIBUNALS AND DEMOCRATIC CONSOLIDATION IN NIGERIA: INTERROGATING THE 2019 POST ELECTION LITIGATIONS IN IMO STATE, International Journal of Education and Social Science Research (IJESSR) 5 (1): 178-192

ELECTORAL TRIBUNALS AND DEMOCRATIC CONSOLIDATION IN NIGERIA: INTERROGATING THE 2019 POST ELECTION LITIGATIONS IN IMO STATE

Johnkennedy Tersoo Ikyase, Tukura Nashuka Tino & Bala IRANYANG Shamaki

Department of Political Science
Federal University, Wukari, Taraba State, Nigeria.

DOI: <http://dx.doi.org/10.37500/IJESSR.2022.5115>

ABSTRACT

The judiciary is one of the important institutions of government that constitutes the spice that help the meals of democracy to be tasty. Over time, the judiciary in Nigeria has made strides in its effort to ensure the deepening or consolidation of democracy especially in the Fourth Republic which started on 29th May, 1999. However, the recent litigations that throw up judiciary decisions from the Supreme Court tend to be generating so much arguments from individuals as to whether the judiciary could continue to be the hope of a common man. This paper therefore, attempt to bridge this gap by looking at the critical issues from the 2019 post-election litigations of the Supreme Court. The paper adopted the documentary method of data collection and utilizes secondary sources. This paper by employing the theory of post-colonial state argues that the very relative autonomy and lack of independent of the judiciary especially in the appointment of CJN and other judicial official account for the perennial controversy associated with the outcome of the 2019 post-election litigations in Nigeria. The paper recommends among others; that for the judiciary to be truly independent appointment of CJN and other judicial officers should be done by NJC to avoid interference or influence from other arms on matters of judicial prerogative to reflect that the Judicial is actually the last hope of a common man.

KEYWORDS: Electoral tribunal, democratic consolidation, election, petition, litigations

INTRODUCTION

Since the returned of Nigeria to the path of multi-party democracy in the Fourth Republic which started on 29th May, 1999, decisions on election petitions by Nigerian electoral tribunals and courts of competent jurisdiction have always imparted on the country's polity hence not only undermining the Nigerian jurisprudence but also influencing political parties and voters' behaviour which in turn undermine democratic consolidation. The recent Supreme Court judgment on the 2019 governorship tussle in Imo state has continued to generate mix reactions, arguments and counter arguments as to judicial neutrality. However, a cursory look at the Nigeria's political history reveals a plethora of instances of such earth-shaking judgments that had affected the course of democracy in Nigeria (Sobechi, 2020). For instance, the 2007 governorship election in River which was a race between the

People's Democratic Party (PDP) and the All-Nigerian People's Party (ANPP) that provided a great consequence of judicial pronouncement is a typical example in this direction. Although the PDP defeated the ANPP amid allegations of rigging and ballot snatching, the legal tango that proceeded to the Supreme Court was intra-party conflict between Celestian Omehia and Rotimi Ameachi over who was the validly nominated candidate of the PDP. The Supreme Court in its ruling on 25th October, 2007, read by justice Mohammed Muntaka-Coomasi sacked Omehia and declared Ameachi as the authentic candidate for the PDP arguing that the Abuja division of the Court of Appeal erred in law to have ruled in favour of Omehia, stressing that Omehia had no stake in the case he filed (Sobechei, 2020). Celestine Omehia rejected the decision of the Supreme Court and attempted to get the Court to review its judgment but to no avail. However, twelve (12) years after the contentious judgment, the Supreme Court on its judgment in the case of Abdulrauf Abdulkadir Modibbo versus Mustapha and two others, over who was the rightful APC candidate for the Yola North/South in the 2019 General Elections, declared that the controversial law relied on in the Ameachi versus Omehia case had lost the potency to serve as judicial precedent because section 141 of the 2010 Electoral Act as amended stipulates that 'before anybody is declared elected in any election, such a person must participate in all the stages of the election' (in Sobechei, 2020). Within this context therefore, it could be recalled that when Ameachi name was substituted for Omehia after the December 2006 primaries of the PDP, Ameachi left Nigeria for Ghana and did not participate in all the stages of the 2007 election. In the same vein, the governorship and legislative tribunals in Abia, Bayelsa, Enugu, Adamawa, Ondo, Ekiti, Kogi and Edo states nullified elections of state governors and some members of house of assembly in these states including elections of some members of House of Representatives and Senate. These nullifications were on the grounds of electoral malpractices; that a candidate did not score the majority of valid votes cast at the election, that the candidate was not qualified to contest election in the first place, that the election was invalid by reason of corrupt practices at the time of the election etc as contained in the Electoral Act, 2006 as amended (Iwejuo, 2011). In the case of Abia State, the lower tribunal nullified the governorship election on the grounds that the governor and his deputy were not qualified to stand for election, and that they did not resign their previous political appointments thirty days before election as stipulated by the Electoral Act, 2006. The Governor Theodore Orji challenged the verdict of the tribunal at the Appeal Court sitting in Port Harcourt, River State. The Appellant Court in its ruling crushed the decisions of the lower courts on February 11, 2009 (Iwejuo, 2011). According to Onoyume, et al (2009), the Chairman of the Appeal Court, Justice Saka Ibiyeye resolved the ten issues raised from the grounds of appeal in favour of the Governor of Abia State. In his words:

I resolve all the ten issues raised from the grounds of appeal in favour of the 1st and second appellants. The 1st and 2nd appellants are returned as governor and deputy governor of Abia State... relying on provisions of the constitution, the court held that Theodore Orji was not a public servant at the time he contested for the governorship election (Vanguard, February 13, 2009, p.5).

The decision of this appeal court may have sent yet another wrong signal in the minds of well-meaning Abians (the electorates), who actually knew what transpired in their state before, during and after the 2007 election. Again, the judgment contradicted relevant section of the 1999 constitution. For instance, it violates section 12 (subsection I.g and h) of the 1999 constitution. In Bayelsa and Enugu states, the lower tribunal nullified the elections of Governors Timipre Sylva and Sullivan Chime. The decisions of the lower tribunal were based on the point that the elections of these governors contradicted relevant sections of the 2006 Electoral Act. Hence, the decisions of the lower tribunal were challenged by the governors in the Court of Appeal sitting in Port Harcourt and Enugu. The appeal Court crushed the decisions of the lower tribunal and ordered for re-run elections in Bayelsa and Enugu State (Iwejuo, 2011). In Adamawa, Sokoto and Kogi, the tribunals also called for re-run elections in view of glaring electoral irregularities and fraud perpetrated by the then ruling People's Democratic Party in these state (Iwejuo, 2011). Before the inauguration of the electoral tribunals investigating allegations of election malpractices in the 2019 general elections, previous electoral tribunals that adjudicated electoral cases of 1979, 1999, 2003, 2007 and 2011 contributed greatly to undermine the country's democratic consolidation. The members of those tribunals were not only corrupt, but also prejudice to correct the perceived anomalies in the Nigeria's electoral process (Iwejuo, 2011). It is against this backdrop that the paper tends to interrogate the 2019 post-election litigations with focus on Imo State to determine whether the electoral tribunals and the courts have followed the laid down judicial procedures coupled with the doctrine of justice and fairness in the adjudication of electoral matters.

Conceptual Clarification

Electoral Tribunals

Electoral tribunal is a mechanism designed to address the apparently alleged abnormalities arising from electoral process and elections. It is premeditated in the pursuit to consolidating a country's democracy. Electoral Tribunals are specialized courts established by the Constitution to hear and determine petitions or issues arising from the conduct of an election. Electoral tribunals are types of courts with the authority to deal with problems arising from the conduct of elections (Iwejuo, 2011). These Tribunals provide a platform where aggrieved political parties or their candidates can seek proper redress in various circumstances allowed under the law for the purpose of resolving disputes arising from the conduct of an election. The Constitution of the Federal Republic of Nigeria 1999 (as amended), creates three categories of Election Tribunals, namely: (i). National and State House of Assembly Election Tribunal(ii). Governorship Election Tribunals(iii) Court of Appeal (section 285 Constitution of FRN, 1999).

The Electoral Act also creates an Area Council Election Tribunal for the Federal Capital Territory (section 135 subsection 1 Electoral Act, 2010). These courts are generally ad-hoc in nature and are to be constituted not later than 14 days before the conduct of an election and upon being constituted, open their registries for business seven days before the election. An Election Tribunal has the duty to determine whether or not an election was conducted substantially in accordance with the Constitution and the Electoral Act 2010 (as amended). In so doing, the Tribunal looks at:(a) The circumstances of

the case, including the state of pleadings;(b) The credibility of the Petitioner's position and the nature and substance of the complaints of the Petitioner. (c) The attitude of the functionaries charged with the conduct of the election; and(d) whether the omissions complained of by the Petitioner, even if proved, affected the conduct of the election. However, achieving this important objective has continued to attract interpretations and criticisms from political observers and analysts in Nigeria. Electoral tribunal is expected both in principle and in practice to be comprised of impeccable judges with the responsibility of investigating what actually transpired during an election. Such a tribunal is typically comprising of five (5) members; however, the Justices Uwais-led Electoral Reform Committee reduced it to three (3) to enable the members take sound decisions in case of disagreement among them (Iwejuo, 2011). Section 140 (1) of the Nigerian Electoral Act, 2010 (as amended) stresses the imperative for electoral tribunals and the process for questioning the return of a candidate as duly elected after election. This section stated as follows:

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

Accordingly, section 140 (2a, and b), of the 2010 Electoral Act (as amended) clarified what a tribunal or court means, its meaning in the case of presidential elections as well as other elections in Nigeria. It further stated in section 140 (3) that such a tribunal shall be constituted not later than 14 days after an election.

Democratic Consolidation

There are diverse understandings and explanations of democratic consolidation, mainly, when the process ends. There are four reference points: avoiding the breakdown of democracy, institutionalizing democracy, quality of democracy, and "two-turn-over test" of power (Omenma et al, 2017). Scheduler (1997) and O'Donnell (1992) cited in Omenma, Ibeanu and Onyishi (2017), associated democratic consolidation with a democratic government that avoids all possible factors that lead to a breakdown or eliminating all risks that will likely result to democratic breakdown. By this definition, democratic consolidation advocates "survival," "stability," "sustainability," or "tenacity" of democratic values. This view is also connected to "democratic survival" or avoiding degeneration to non-democracy. However, there is generally a measurement problem if we subscribe to this definition because it is difficult if not impossible to measure survival. Some Scholars emphasis on "institutions" building (Schmitter, 1988; Linz, 1990; Schedler, 1997; Przeworski, 1991 quoted in Omenma et al, 2017). Fundamentally, any democratic setting, where election has been accepted and appreciated as the only effective mechanism of changing government, democracy is likely to be 'consolidated'. Linz (1990 in

Omenma et al, 2017) on his part, describes democratic consolidation as a state of affairs when democracy must be perceived as the only game in town.

Other scholars such as Schedler, (1996); Linz and Stepan, (1996); Diamond and Morlino, (2004); Roberts, (2009); and Munck, (2012) cited in Omenma, Ibeanu and Onyishi (2017), loosely defined democratic consolidation as “deepening of democracy”, “high-quality democracy” or “quality of democracy”. The notion of “high-quality democracy” or “quality of democracy” is rented from the minimalist concept of democracy (Omenma, et al, 2017). This is the most striking concept of democratic consolidation, according to Dahl (1989), who argues that elections bereft of fraud and violence increases political legitimacy.

Huntington (1991 in Omenma et al, 2017), argues that, democracy may be seen as consolidated if the party or group that takes power in the early election at the time of the transition, loses a later election, and turns over power to those election winners, and if those election winners, then peacefully turn over power to winners of a subsequent election. Przeworski (1991 in Omenma et al, 2017) supported this idea and asserting that a system in which parties lose elections is a significant indicator of democratic consolidation. Similarly, Freedom House (2010) defines democratic consolidation in terms of regular elections conducted in conditions of ballot secrecy, sensible ballot security, and in the absence of massive voter fraud that undermines the will of the masses.

Theoretical Framework

this paper is anchored on the theory of the post-colonial state propounded by Hamza Alavi in 1972 and popularized scholars like Ake (1981), Ekekwe (1986), Ibeanu (1988), Nnoli (1986), Idode (1989), and Mbah (2011) among others. At the heart of the theory of post-colonial state is its postulation that the nature, character and institutional framework that has informed and characterized the state has its foundation in a colonial state and its associated concept ‘imperialism’. The theory assumes that in connection with the dwindling capital penetration in the economy is intense political competition to control the bureaucratic or administrative state apparatus. To this theory, the intensifying political competition for state power coincides with the socio-economic competition. Ifesinachi (2006) on his part argues that the relative autonomy of the state depends on the management of government institutions of the state by political leadership.

Ake (1973) submits that a relative autonomy state does not limit itself to supervisory or regulatory role and is thus compromised to an extent that instead of rising above class struggle, is deeply immersed in it. Again, Ake (1981) also argues that by involving the state so intimately in the class struggle and by increasing the state power, the blurring of the distinction between the ruling class and the state is reinforced, and the government collapses into the ruling class reinforcing the authoritarianism of the hegemonic faction of the bourgeoisie. Therefore, elections are merely a system for political ideological reification of the hegemony and power of the dominant class or a system of acculturation through which dominant ideologies, political practices and beliefs are reproduced (Adejumobi, 2000 cited in

Anichie, 2017). Within the context of class differentiations and inequalities, therefore, the theory of post-colonial state posits that political rights as enshrined in elections present little or no choice to the dominated class as the choice of candidates are agenda oscillates among members of dominant class (Anichie, 2017). Consequently, Ake (1995) stated that the implication of this is a dissociation of voting from choice and rights from the exercise of political power. What this means therefore, is that elections cannot facilitate or foster political accountability, responsiveness and democracy, which is why Ogban-Iyam (2005 quoted in Anichie, 2017) argues that this form of electoral democracy practice in Nigeria does not translate to popular democracy and hence could only be termed ‘electocracy’.

The theory also posited that because of the weak and fragile economic base of the class that inherited the post-colonial state, the state invariably became a major instrument of capital acquisition, investment and development. Hence, the acquisition and exercise of state power serves as a means of investment for those who control the state (Ake, 1981 & Mbah, 2011). Ake (1981) further argues that the very limited autonomy character of the state means that the state is institutionally constituted in such a way that it enjoys limited independence from the social classes, particularly the hegemonic class, and therefore, is immersed in the class struggle that goes on in the society. The theory also assumes that power contest in the state is akin to life and death which is seen as a zero-sum game where winner takes all. To this end, power is everything even life and death. Therefore, governance in a relative autonomy state is marred by corruption, nepotism, tribalism, among others (Ibeanu, 1988).

The fundamental of the post-colonial state theory is on understanding the nature, structure, history, composition and character of the Nigerian state in order to ascertain the dynamics of political development and processes within the state and these dynamics include electoral tribunals and democratic consolidation in Nigeria: interrogating the 2019 post-election litigation in Imo state. Within this context, therefore, it is not out of place to argue that the very limited autonomy of the state leads to an exclusive politics articulated in the struggle for power based on efficiency norms rather than legitimacy norms, democratic principle, the triumph of the vicious over virtuous circle, centralization of power; imposition of domination and political control and alienation of leaders from their masses; and the deployment of military in the exercise of civil authorities are all hallmarks of the relative autonomy state.

Theory Application

From the foregoing, the connection between electoral tribunals and democratic consolidation is better understood in light of the theory of post-colonial state. This framework unravels the concealed relation that explain how the lack of judicial independent, weak, limited autonomy of Imo state and the authoritarian character of the Nigerian state with high degree of non-adherence to the rule of law couple with the absence of democratic principle are basically responsible for the executive interference in judicial matters especially post-election litigations. This is fundamentally so because the struggle for power is regarded as a means of primitive accumulation of wealth for those who control the state.

Controversial Courts Decisions on the 2019 Imo State Governorship Post-Election Litigation

In the Imo State governorship election of March 9, 2019, a former speaker of the House of Representatives and the PDP candidate for the election, Emeka Ihadioha was declared winner having polled 273,404 votes ahead of his closest rival and candidate of the Action Alliance (AA), Mr Uche Nwosu who scored a total of 190,364 votes; the candidate of the All Progressive Grand Alliance (APGA), Mr Ifeanti Ararume who polled a total of 114,676 votes came third ahead of Hope Uzodinma of the All Progressive Congress (APC) who polled 96,458 votes, while the candidate of the Accord Party (AP), Mr Ikedi Ohakim came distant fifth with a total of 6,846 votes (Alabi, 2019). Declaring the results, the returning officer of Imo State and Vice-Chancellor of the University of Agriculture, Umundike, Abia State, Professor Francis Atunta gave the total number of registered voters across the twenty-seven (27) local government areas of the State as 2,221,008, and the total accredited voters as 823,743; and further stated that a total of 25,130 votes were cancelled across the state with a total valid votes as 714,355 while the total votes cast was 739,485 and a total of seventy (70) candidates representing numerous political parties participated in the election (Alabi, 2019).

However, three (3) of the contestants namely; Mr Uche Nwosu of Action Alliance (AA), Mr Ifeanti Ararume of All Progressive Grand Alliance (APGA), and Mr Hope Uzodinma of the All Progressive Congress (APC), who were not satisfied with the outcome of the Imo state governorship election filed their various petitions at the Electoral Tribunal challenging the victory of Mr Emeka Ihadioha. On 21st September, 2019, the three-member panel of the tribunal led by Justice Malami Dongondaji dismissed the petitions of Nwosu (AA), Ararume (APGA), and Uzodinma (APC) for lack of merit, and argued that the trio failed to prove the allegations made in their petitions because the evidences of the witnesses were based on hearsay (Alabi, 2019). Again, not satisfied with the decision of the electoral tribunal, Nwosu, Ararume and Uzodinma appealed the judgment of the lower court. In their various appeals, Nwosu, Ararume and Uzodinma argued that Mr Emeka Ihadioha did not obtain the constitutionally required one-quarter of the votes cast in at least two-third (2/3) of the twenty-seven (27) local government areas of the state as provided under section 179 of the 1999 constitution of the Federal Republic of Nigeria as amended; and asked the appeal court to either set aside the decision of the electoral tribunal and declare them the winner of the election or in the alternative order INEC to conduct a re-run into the office of governor of Imo state (Yahaya, 2020). On 19th November, 2019, a five-member panel of the Court of Appeal presided over by Justice Oyebisi Omoyele on its ruling dismissed the trio appeals and affirmed the victory of Mr Ihadioha as the duly elected governor of Imo state (Yahaya, 2020). The court on its judgment held that the various appeals were lacking in merit as the appellants could not prove their case beyond doubt. However, when the legal tango proceeded to the Supreme Court which is the apex court of the country, the seven-man panel of the apex court led by the Chief Justice of Nigeria, Justice Mohammed Tanko, in the unanimous judgment read by Justice Kudirat Kekere-Ekun, on 14th January, 2020, voided the election of the respondent Mr Emeka Ihadioha arguing that results in 388 polling units were unlawfully excluded during the collation of the final governorship election result in Imo state and held that with the result from the 388 polling units added, Mr Uzodinma polled a majority of the lawful votes cast and ought to have been declared the

winner of the Imo state governorship election by the INEC (Yahaya, 2020). Thus, Justice Kudirat Kekere- Ekun failed to provide the details of the new votes scored by each of the candidates after the adding of the results from the 388 polling units. Consequently, the Apex Court nullified and set aside the declaration of Mr Emeka Ihadioha as the winner of the 2019 governorship election in Imo state, and ordered that the certificate of return wrongly and unlawfully issued to Mr Ihadioha be withdrawn by the INEC and a fresh one issued to Mr Uzodinma as the elected governor of Imo state because votes due to Hope Uzodinma and the APC were from the 388 polling units were wrongly and unlawfully excluded from scores ascribed to Uzondinma (Yahaya, 2020)

Table showing Courts Decisions on Imo State Governorship Tussle 2019

| Petitioner(s) | Party | Respondent | Party | Ground(s) for Petition | Electoral Tribunal Decision/Reason | Appeal Court Decision/Reason | Supreme Court Decision/Reason |
|--|-------------------|----------------|-------|--|---|--|--|
| Uche Nwosu Ifeanyi Ararume Hope Uzodinma | AA APGA APC | Emeka Ihadioha | PDP | Respondent Emeka Ihadioha did not obtain the constitutionally require done quarter of the votes cast in 2/3 of the 27 LGA of the state | Petitions dismissed for lack of merit. The Tribunal held that the petitioners failed to prove Beyond doubt the allegation made as evidence of the witnesses were based on hearsay | Appeal dismissed for lack of merit on the ground that appellants failed to prove their case beyond reasonable doubt. | Appeal allowed; election of the respondent voided on the ground that results in 388 polling units were unlawful excluded during collation and that with the results from the 388 polling units totalling 213,295 added, one of the appellants Hope Uzodinma scored a majority of the lawful votes cast and was declared the winner by the court. |

Source: Authors compilation with data generated from Yahaya (2020)

Matters Arising from the Supreme Court Verdict on Imo State Governorship Tussle

The Supreme Court verdict of 14th January, 2020 that voided the election of Mr Emeka Ihedioha of the People's Democratic Party (PDP), has generated mix reactions, arguments and counter-argument by politicians, political analysts and lawyers alike as to the potency of the judgment. Many political observers had argued that the Apex Court ruling was a miscarriage of justice and a travesty, others argued that the Apex Court on the facts, was right in declaring Uzodinma the winner of the Imo state governorship election in law because Emeka Ihedioha's legal team failed to file a cross petition challenging the results from the 388 polling units and invalidate Uzodinma presumption. For instance, Osuji (2020) argues that the results from the 388 polling units were examined and found to be forged, concocted, photocopied and largely illegible at the tribunal and appeal court to the extent that not even the appellant, Hope Uzodinma could read the results when challenged to do so. Osuji (2020), further posited that apart from the fact that Uzodinma came last in the election with the least votes, the Apex Court in its earlier judgment had declared Uche Nwosu as the authentic candidate of the APC, therefore, it stands to reason by that ruling that Uzodinma candidacy had become nullity which begs the questions as to how a non-candidate be declared winner in an election and under which party did Uzodinma contest? Osuji (2020), also averred that given other extraneous considerations like zoning, rotation and eligibility of candidates in Imo state, Imo people would never had voted Hope Uzodinma to be their governor. While Ikonne (2020) on his part argues that Hope Uzodinma may not have won the 2019 Imo state gubernatorial election, however, the Apex Court was right in law to rely on the presumption of the regularity and correctness enshrined by both the 2010 Electoral Act as amended and Evidence Act in favour of the results from the said 388 polling units and add them up to the final result since Ihedioha's legal team failed to effectively challenge and deny Uzodinma's presumption. Again, Ikonne (2020) submits that the Apex Court was legally correct in its ruling having found that INEC had no power in law to exclude polling units' results duly affirmed by the various polling units presiding officers. Omeihe (2020), observes that when the 213,295 votes from the 388 polling units admitted by the Apex Court are added to the total number of valid votes recorded by the INEC, it exceeded the total number of accredited voters by 104,907 which is a clear indication of an arithmetic error, and it is not possible to have more voters than the total number of accredited voters. Similarly, if this figure 104, 907 in excess of the accredited voters is subtracted from the 309,753 credited to Uzodinma by the Apex Court, Uzodinma's total score will still fall below 273, 404 votes scored by Ihedioha (Omeihe, 2020) which is the issue to review.

Furthermore, there are other irreconcilables arising from the results of the 388 polling units that formed the basis for the declaration of Uzodinma as the winner of the Imo state gubernatorial election; the first has to do with the exclusion of all the other political parties in the election as evident from the vague result sheets on which basis the Apex Court declared Uzodinma winner, secondly, what can be garnered from those illegible results sheets are results purportedly scored only by the APC and the

PDP, and why was the contest just a matter between the two parties in an election that featured about 70 political parties was the reason the Apex Court needed a thorough review of the facts of the matter (Omeihe, 2020). Besides, an analysis of those results sheets further exposed over-voting in many of the units; where there was no over-voting, Uzodinma scored more than 80 per cent of the total number of the votes recorded with instances of votes scored higher than the total number of registered voters in some other units which are obvious instances of electoral infraction that the Nigerian electoral laws frown at, and the admissibility of such results is a serious issue to contend with (Omeihe, 2020). Even then, the court has to satisfy itself with the propriety of admitting results from the 388 polling units which INEC clearly disowned because elections were not conducted there for reasons ranging from violence to other infractions, and there is also the issue of how a candidate that came forth scoring only 96, 458 votes from 3,135 polling units was able to gather 213, 295 from just 388 polling units said to have been omitted by the INEC (Omeihe, 2020). In the same vein, the alarming discrepancy between the votes Uzodinma scored at the 388 contentious polling units and what he (Uzodinma) polled at the 3,135 polling units spread across Imo state is part of the discontent with the ruling of the Apex Court, and which fact becomes more obvious when it is compared with the standing of the parties in the Imo state House of Assembly election held simultaneously with the governorship election (Omeihe, 2020). In the Imo state legislative election, the PDP got 13 seats, AA 8 seats while APGA got 6 seats making up the 27 state constituencies of the Imo House of Assembly which clearly shows that the APC did not win a single seat including the local government of its APC candidate (Omeihe, 2020). Additionally, the Apex Court was inquisitively silent on the spread of votes scored by Uzodinma that qualify him (Uzodinma) to have satisfied the constitutional spread of gathering one quarter of the votes in two-thirds of the 27 local governments of the state, and for a candidate that could not secure a single seat in the state assembly, the possibility of meeting that requirement seems a tall order (Omeihe, 2020). All of these would suggest that the Apex Court ruling amounted to a flagrant miscarriage of justice and indeed a travesty that is capable of truncating democratic consolidation in Nigeria. Consequently, there were different forms of agitation and discourse that created controversies among the political elites and legal experts arising from the Apex Court ruling; while at the political arena, it created protest from State to State, one embassy to another and turned the prayer grounds to centres of prayer protest. For instance, the National Chairman of PDP, Prince Uche Secondus, had on 20th January, 2020, led a street protest at Abuja, where he (Secondus) described the judgement that sacked Emeka from office as a miscarriage of justice while the Party State chapters also held different protests to show their displeasure with the Supreme Court verdict (Femi, 2020). To this end, Emeka Ihedioha approached the Apex Court to seek for a review of the judgment that sacked him arguing that the results presented by Hope Uzodinma was fake due to the inherent errors in the results and the manner at which it was presented because by the virtue of the constitution, INEC ought to be the custodian of election results and not a security agent.

However, the seven-man panel of the Apex Court presided over by the Chief Justice of Nigeria, Justice Tanko Muhammad, in a split ruling of six-to-one on 3rd February 2020, described the application filled by Emeka Ihedioha seeking the review of the Judgment that sacked him (Ihedioha) as the governor

of Imo State on 14th January, as an invitation for the court of final arbiter to sit in an appeal over its judgment (Femi, 2020). Though, Justice Chima Nweze, a member of the panel held that the Apex Court had the power to overrule itself in a desirous situation like this where, Hope Uzodinma, seems to have misled the court in arriving at the judgment that removed Emeka Ihedioha from the office arguing that if not done, the judgment would continue to haunt the nation’s electoral jurisprudence (Femi, 2020). But despite the controversies, demonstrations, and Justice Nweze’s argument that the Apex Court has the power to overrule itself in a desirous situation, the court still maintain its stands on the removal of Emeka Ihedioha from the State House

Table showing Imo State 2019 House of Assembly Election Results

| S/N | Name of Candidate | LG Constituency | Party | Votes Received | Remark |
|-----|-----------------------|------------------|-------|----------------|------------------|
| 1 | Chief Eddu Obinna | Aboh Mbaise | PDP | 46, 952 | Declared Elected |
| 2 | Otuibe Samuel N. | Ahiazu Mbaise | PDP | 16,905 | Declare Elected |
| 3 | Duruji Lawrence I. | Ehime-Mbano | AA | 10,498 | Declared Elected |
| 4 | Ayadike Nwosu | Ezinihitte | PDP | 22,520 | Declared Elected |
| 5 | Egwim Innocent A. | Ideato North | AA | 4,815 | Elected |
| 6 | Iheonukara D. Johnson | Ideato South | AA | 32,172 | Elected |
| 7 | Njoku Onyemachi M. | Ihite Uboma | APGA | 5,972 | Elected |
| 8 | Uche Ogbuagu S. | Ikeduru | PDP | 18,791 | Elected |
| 9 | Collins Jimezie Chiji | Isiala Mbano | APGA | 10,035 | Elected |
| 10 | Modestus Abiazie O. | Isu | PDP | 4,493 | Elected |
| 11 | Onyekanma Chinedu | Mbaitoli | PDP | 13,008 | Elected |
| 12 | Okereke Tochi S. | Ngor Okpala | PDP | 11,500 | Elected |
| 13 | Onwudiwe Jovita O. | Njaba | AA | 5,492 | Elected |
| 14 | Obinna Okwara | Nkwerre | AA | 7,373 | Elected |
| 15 | Iwuanyanwu Chyna | Nwangele | APGA | 7,762 | Elected |
| 16 | Kennedy Ibe C. | Obowo | AA | 10,396 | Elected |
| 17 | Frank Ugboma O. | Oguta | PDP | 7,904 | Elected |
| 18 | Cyriacus Okoro | Ohaji-Egbema | AA | 15,714 | Elected |
| 19 | Ogbunikpa Samuel | Okigwe | APGA | 7,756 | Elected |
| 20 | Paul Emeziem | Onuimo | APGA | 4,103 | Elected |
| 21 | Pascal Okolie | Orlu | PDP | 8,694 | Elected |
| 22 | Ekene Fredoline N. | Orsu | APGA | 6, 285 | Elected |
| 23 | Nwaneri Chigozie | Oru East | PDP | 13,821 | Elected |
| 24 | Dominic Ezerioha | Oru West | PDP | 5,476 | Elected |
| 25 | Anthony Chika | Owerri North | AA | 3,767 | Elected |
| 26 | Anukam Solomon | Owerri Municipal | PDP | 8,053 | Elected |
| 27 | Kanayo Onyemachi | Owerri West | PDP | 10,298 | Declared Elected |

Source: Authors compilation with data from Owuamanam (2019)

The table above shows that of the twenty-seven (27) local government of Imo State House of Assembly elections in 2019, PDP won 13 seats, AA won 8 seats and APGA won six (6) seats.

Table representing 2019 House of Representatives Lawmakers-Elect from Imo State

| S/N | Candidate | Federal Constituency | Party | Remark |
|-----|----------------------|-------------------------------------|-------|---------|
| 1 | Henry Nwawubu | Ikeduru/Mbaitoli | PDP | Elected |
| 2 | Bede Eke | Ngor Okpala/Aboh mbaise | PDP | Elected |
| 3 | Onyewuchi Ezenwa | Owerri municipal/owerri north/south | APGA | Elected |
| 4 | Emeka Chimeziwas | Ezinihitte Mbaise/Ahiazu Mbaise | PDP | Elected |
| | | | | |
| 5 | Goodluck Nanah Opiah | Ohaji-egbema/Oguta/Oru west | PDP | Elected |
| 6 | Chukwukere Austine | Ideato North/South | APC | Elected |
| 7 | Jones Onyereri | Nwangele/Nkwerre/Isu/Njaba | PDP | Elected |
| 8 | Alagboso Jerry | Orlu/Oru East/Orsu | PDP | Elected |
| 9 | Oninubuariri Obinna | Isiala Mbano/Okigwe/Onuimo | PDP | Elected |
| 10 | Okafor John | Ehime Mbano/Ihitte Uboma/Obowo | APC | Elected |

Source: Authors compilation with data generated from Owuamanam (2019)

The results from the above table indicate that out of the Ten (10) House of Representatives members elected from Imo state, PDP won Seven (7) seats, APC won Two (2) seats while APGA won only One (1) seat to represent Imo federal constituency in the 9th Assembly. Similarly, the results from the above table show that the PDP actually won the governorship election in Imo State.

CONCLUSION

The Journey to the governor's office of Imo State began with the opening of the election space by Independent National Electoral Commission (INEC) in 2018, which led to the declaration of Emeka as the winner of the election in March, 2019, before he was sacked by the Apex court after adding the votes cast from the excluded 388 polling units by the returning officer to the votes scored by Senator Hope Uzodinma who came fourth based on INEC declaration in 2019. Prior to the Apex Court verdict, the Tribunal and Appeal courts had dismissed the claims of Senator Hope Uzodinma on the disputed votes arguing that Uzodinma failed to substantiate his claims with concrete evidence. Ordinarily, the Emeka counsel failure to counter Uzodinma's presumption of exclusion of votes duly cast for him from 388 polling units at the lower courts led to Ihedioha's removal from the state house by the Apex Court on 14th January, 2020. Amidst various demonstrations, discontents, argument and counter-argument on the potency of the Apex Court ruling that removed Emeka Ihedioha from office, the PDP and Ihedioha went back to the court for review arguing that the results presented by Senator Hope

Uzodinma from the 388 polling units were fake due to the inherent errors in the results and the manner at which it was presented because by the virtue of the constitution, INEC ought to be the custodian of election results and not a security agent. However, whether the results were presented by INEC or Security officer, the question begging for answer is: what might have made a returning officer whose job is to collate results and return an elected person to exclude 388 polling units after duly signed by the Presiding Officer? This is an issue for future debate. Perhaps, there was an invisible hands which might have either manifested in terms of threat or money. And if they were concocted results what makes Emeka Ihedioha's legal team not to substantively counter it before getting to the Apex Court? Supreme Court as the final arbiter in the land is to judge based on the evidence and counter claims presented before it by the parties and not on assumption. In a situation where a party or the parties failed to do the needful, the Apex Court will not because of their negligence negate the principles of adjudication or help a party or parties to say what it ought to say because there must be an end to litigations.

RECOMMENDATIONS

From the foregoing analysis, this paper recommended as follows:

- i. The electoral tribunals should act as a policeman, standing on the 'electoral road' to ensure that the electoral body (INEC), political parties and their candidates, the security agents as well as the electorates carryout/participate in the elections according to the laid down rules and regulations as stipulated by the country's Constitution and Electoral Act.
- ii. That the judges that found themselves in the tribunals' 'pulpits' should shun the acceptance of gratification to uphold or upturn declared results against the wishes of the electorates. These are against the backdrop of various allegations of bribery levelled against the members of tribunal in numerous states across the country.
- iii. The Supreme Court must do something to redeem public confidence which has waned considerably by that singular judgment on Imo state gubernatorial election because it is being looked upon to assert its independence in keeping with the principles of separation of powers, checks and balances against the excesses of the executive and the legislature.
- iv. In a desirous situation, especially when the court errs in its ruling, the Apex Court should act by reviewing itself to restore public confidence in the judicial institution as the last hope of the common man bearing in mind that the issue is about the future of democracy, the inalienable rights of a people to determine those to preside over their affairs, given that the choice of the people is an irreducible decimal in representative democracy.
- v. The Supreme Court must as a matter necessity re-visit some of its judgments because of the fundamental implications they have for the impartiality and independence of the judiciary.

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