Appraisal of Presumption of Regularity of Election Results Declared by INEC and Electoral Violence in Nigeria

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Abstract

By the doctrine of presumption of regularity, the decisions and actions of public officials, including the conduct and results of elections, are made in accordance with the law and established procedures unless proven otherwise. At the same time, elections in Nigeria have degenerated from being a means for popular participation and peaceful change of government to an invitation to intense violence and political uncertainty in the country. Elections in Nigeria have been described as a do-or-die affair even by esteemed official quarters. As a result of this, series of violent clashes occur and sometimes results to loss of lives and properties. In the Nigerian judicial system, the principle of proving a crime beyond reasonable doubt is a cornerstone of criminal jurisprudence. This principle becomes particularly critical in the context of election petitions, where allegations of electoral malpractices must be substantiated with compelling evidence. In this article, the writer looks at the doctrine of presumption of regularity of election results declared by electoral empire and electoral violence with the view to revisit this doctrine of presumption of regularity of election results in cases of glaring electoral violence. This will go a long way in minimizing the high incidences of electoral violence in Nigeria.

Key words: Presumption of Regularity, Election Results, Electoral Violence.

1. Introduction

The Electoral Act[1] and the 1999 Constitution[2] are the primary statutes governing the conduct of elections in Nigeria. These laws provide the legal framework for the organization, conduct, and adjudication of elections, ensuring that the principles of fairness, transparency, and integrity are upheld. Election petitions in Nigeria hold a unique position in the country's legal framework, characterized by distinct principles and procedures that differentiate them from regular civil or criminal proceedings. The term "*sui generis*" aptly describes this uniqueness, indicating that election petitions are of their own kind or class. Despite this uniqueness, the doctrine of presumption of regularity of election results declared by INEC (as obtained in our Evidence Act) during electoral violence still applies. In this article, the writer shall look at electoral violence in our electoral processes with the view of making a case for discarding the doctrine of presumption of regularity of election results declared by INEC where the elections are characterized by violence. This will go a long way in minimizing the high incidences of electoral violence in Nigeria.

2. Clarification of Concepts

a. Presumption of Regularity

The presumption of regularity is a legal doctrine that assumes the decisions and actions of public officials, including the conduct and results of elections, are made in accordance with the law and established procedures unless proven otherwise. In the context of elections, this presumption implies that the results declared by the electoral body are valid and legitimate until substantial evidence is presented to contradict this assumption. This principle is essential in maintaining public confidence in the electoral process and ensuring political stability.

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[1] Electoral Act, 2022.

[2] Constitution of the Federal Republic of Nigeria, 1999 (as amended).

b. **Election Result**

Election is the corner stone of democracy.[3] Election is a means through which people make choice of leadership.[4] It is the process of electing one person or more for leadership positions in both public and private establishment. Election offers a medium through which citizens in a polity choose their representatives and political leadership.[5] It also allows a degree of communication between the rulers and the ruled and further provides a means of legitimizing the rights of the rulers to govern.[6]

In the contemporary world of today, elections have become the most acceptable means of changing leadership in any given political system. Representative government is often referred to as democracy where the authority of government is derived solely from the consent of the governed. The principal mechanism for translating that consent into governmental authority is the holding of free and fair elections.[7] A free and fair election gives the assurance that those who emerge as rulers are the elected representatives of the people. Except in case where an aspirant is returned unopposed; there will usually be at least two contestants to elective posts. Rules and regulations are normally put in place for the conduct of free and fair elections.

The Electoral Act[8] is the law which currently regulates elections in Nigeria. Applying a broad interpretation, the Court of Appeal in *Progressive Peoples' Alliance (PPA) v Sariki*[9] interpreted the word "election" as used in section 137(1)(b)[10] to mean the "process of choosing by popular votes a candidate for a political office in a democratic system of government. It cannot refer exclusively to the polls. The casting of votes by the electorates on the day of the polls is just part of the electoral process.[11] By the provision of the Electoral Act[12] the word election is a generic term comprising *inter alia* submission of list of candidates and their affidavit by political parties, nomination of candidates, conduct of the polls etc. In this article, the term election will be used in a broad manner.

Election results are the culmination of the democratic process, reflecting the will of the electorate. In Nigeria, the declaration and validation of election results are governed by a comprehensive legal framework, encompassing the Constitution,[13] the Electoral Act[14]and various judicial decisions.Section 153(1) (f) of the Constitution[15] establishes the Independent National Electoral Commission (INEC) and outlines its functions while sections 66, 134, 179, and 285 of the Constitution[16] define the criteria for winning various elective offices and the procedures for challenging election results.Sections 63, 68, 74, 75, 76, 153, and 158 of the Electoral Act[17]detail

[3] T. Osipitan, "Problems of Proof under the Electoral Act 2002,"in *Judicial Excellence, Essays in Honour of Hon. Justice Anthony Iguh JSC CON*, Enugu, Snaap Press Ltd, 2004.
[4] < http://www. International peace and conflict.org/profiles/blogs/election>(accessed on 18 June 2012).
[5]*Ibid.*
[6]*Ibid.*
[7] <www.Buzzle.com/articles/electoral-reform-in-Nigeria-html-28k> (accessed on 18 December 2008).
[8] Electoral Act 2022.
[9] (2007) 17 NWLR (Pt. 1064) 456.
[10]Constitution of the Federal Republic of Nigeria 1999 (as amended)
[11]*Ibid* per Ogunwumi JCA who read the lead judgment.
[12] Electoral Act 2022.
[13] Constitution of the Federal Republic of Nigeria, 1999 (as amended).
[14] Electoral Act, 2022.
[15] Constitution of the Federal Republic of Nigeria, 1999 (as amended).
[16]*Ibid*.
[17] Electoral Act, 2022.

the processes for voting, counting, and declaration of results, as well as the resolution of disputes.The declaration of election results is the responsibility of the INEC. According to Section 68(1) of the Electoral Act,[18] results are declared at the polling unit level and collated at various stages until the final announcement. The law mandates transparency and accuracy in this process to ensure the credibility of the results.

c. Free and Fair Election

Free election is an election in which the political system and processes guarantee that each voter will be allowed to vote according to his conscience. The concept of "free and fair" election is not a legal theory as such. Its significance is underscored by municipal and international legal instruments. The African Charter on Human and People's Right[19] provides that every citizen shall have the right to participate freely in the government of his country either directly or through freely chosen representatives. Article 21(3)[20] provides that the will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine election which shall be held by secret vote or by equivalent free voting procedures.

From the above, it can be seen that free and fair elections are those elections held without physical or psychological intimidation and in accordance with the provisions of fair electoral laws in force. They are those elections conducted so that the electorates have reasonable opportunity to vote, with each vote given same effect.[21]

d. Electoral Violence

Violence is the use of physical force, usually accompanied by fury, vehemence, or outrage, especially force unlawfully exercised with the intent to harm.[22] It is an act against an individual or group, with the intent to cause injury or death.[23] Violence arises from the pursuit of varying interests, goals and aspirations by individuals, and/or groups.[24] It is a fact of life, especially in societies like Nigeria.

Electoral violence is all forms of violence that emanate, at any stage, from differences in views, opinions and practices during the process of elections.[25] It is the employment of force by political parties or their supporters to intimidate opponents and threats to a democratic regime and has often accounted for seizures of political power by the use of undemocratic means, such as force.[26] Electoral violence has regularly been reported in Nigeria and manifest in the 3 electoral stages, namely: pre-election, during election and post-election in various forms.[27] Electoral violence in Nigeria has two broad dimensions, physical and psychological.[28] It ranges from acts of assault,

[18] *Ibid*.
[19] Article 13(1), Cap A9 Laws of the Federation of Nigeria, which is part of our law as was held in *Abacha v. Fawehinmi* (2006) 6 NWLR (Pt. 660) 228.
[20] Universal Declaration of Human Rights.
[21] B.A. Garner, (ed), Black's Law Dictionary, 8th Ed, Thompson Group. USA, 2004 p.688.
[22] *Ibid* at p. 1601.
[23] http://aceproject.org/ero-en/regions/africa/NG/ electoral – violence – n … (accessed on 18 June 2012).
[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*
[27] http://www.monitor.upeace.org/archive.cfm?id- article =67 (accessed on 18 June 2012).
[28] *Ibid.*

arson, ballot box snatching and stuffing to murder/assassination. Between 1999 and 2007, electoral violence has reportedly claimed more than 11,000 lives in Nigeria.[29]

3. Case Studies of Electoral Violence during Elections

The history of general elections[30] in Nigeria since independence in 1960 has been characterized by widespread malpractices and violence. Attention of the writer will be focused on some of the elections conducted during these periods in analyzing electoral violence.

3.1 The 2003 General Elections

The general elections held in April 2003 were marred by widespread rigging, voter intimidation and violence.[31]Dozens of people were killed in pre-electoral violence in various parts of the country. Events that followed the political crisis in Anambra State involving Dr. Chris Ngige and Chief Chris Uba[32] and the latter's subsequent confession exposed the apparent fraud that characterized the election in the country.[33] Specifically, Uba confessed unequivocally that:

> *We the PDP did not win the 2003 elections in Anambra State. I have gone to church to confess. The election had no document. I called the result before midnight. I gave INEC money and asked them to announce the result.*[34]

Other highlights of the 2003 general elections include:

a. During the election, the sub-station of the Federal Radio Corporation of Nigeria in Markudi (Benue State) was burnt down.[35]
b. At Oji River in Enugu State, the office of the Independent National Electoral Commission (INEC) was burnt down following violent protest on alleged falsification of electoral results.[36]
c. In Niger Delta region, elections aggravated the political crisis in the Niger Delta. During the period, the level of violence there was the highest in the country.[37] It was observed that politicians recruited and armed members of youth groups to intimidate opposition politicians and their supporters. Many of these armed youths have freed themselves from their former patrons and are now independent, well-armed actors with experience and knowledge of the terrain. Now, they engage in oil bunkering and other violent crimes like armed robbery and kidnapping.[38]
d. In Benue State, the Kwande crisis of March, 2004 was traced to the 2003 gubernatorial elections. Supporters of Paul Unongo, an indigene of Kwande and the flag bearer of the All Nigerian People's Party in the 2003 gubernatorial elections saw the March, 2004 local government election as an opportunity to regain strength and control of Kwande. Meanwhile the ruling PDP at the State and Local Government levels were determined to

[29]*Ibid.*
[30] General elections were conducted in post independent Nigeria in 1964, 1979, 1983, 1993, 1999, 2003, 2007, 2011, 2015, 2019 and 2023.
[31]*Ibid.*
[32] Both members of the Peoples Democratic Party – PDP at the time.
[33]*Ibid.*
[34]*Ibid.*
[35]Ubanyionwu, C. J.,"Electoral Violence and future of Nigerian Democracy" The College of Law, Joseph Ayo Babalola University, Law Journal, Ikeji - Arakeji, Vol 1, No. 1, 2014, pp. 48-56.
[36]*Ibid*.
[37]*Ibid.*
[38]*Ibid.*

maintain power. The stage was therefore set for the test of relative power and influence and also a contest over pre-eminence and the political leadership of the Tiv ethnic group.[39] The tensions were compounded by the invasion of unknown soldiers which led to the killing of 11 people and wounding of about 9 in Adikpo, the headquarters of Kwande Local Government Area. The victims were mostly supporters of the ANPP. The bubble burst after the Benue State Independent Electoral Commission declined to release the result of the Local Government elections of March 2004 in Kwande but opted instead to postpone the election which had already been held. The ensuing violence led to the death of not less than 12 people and destruction of property valued at about N293, 501, 288 million Naira.[40]

e. In its report on the 2003 general elections, the Transition Monitoring Group (TMG) maintained that the desperation to capture power by members of the political class intensely heated up the political process. Political office holders utilized the power of incumbency to intimidate the opponents. This began with the stage managing of the registration of political parties to give advantage to political incumbent. It further observed that even pre-election campaign were characterized by political violence including the assassination of prominent political figures such as Chief Bola Ige, Harry Marshal, Victor Nwankwo and Chief Dikibo.[41]

3.2 The 2007 General Elections

The 2007 general elections in Nigeria were also flawed and generated immense tensions in the polity.[42] The elections were marred by pre and post election violence. I shall highlight some instances to illustrate the pointed being made: -

(a) In Ekiti State, on the day of the election, at least two persons were killed in Ikere-Ekiti and Ise-Ekiti while eight others received gun shots in the violence that ensued in the course of voting. There was massive snatching of ballot boxes in virtually all Local Government Areas.[43]

(b) In Ondo State, about eight people were arrested while about five others were wounded during the Presidential and National Assembly elections held on 21/4/07.[44]

(c) In Bauchi State, thugs virtually took over the street even before the announcement of the governorship result. Because of the deteriorating situation occasioned, curfew was imposed in the State.[45]

(d) In Delta State, INEC office at Obiaruku was burnt down on the morning of the election. Election in the State was characterized by intimidation, arson, destruction of lives and properties in several parts of the state, accompanied by hijack of electoral materials. As a

[39]*Ibid. S*ee also Oga Ajene, "Partnership for conflict management and Peace – building: A field Experience from Kwande local Government of Benue State, Nigeria," being p*aper presented at the Colloquium organized by the Strategic Partnership for Peace (PASPA) and the Network of African Peace Builders (NAPS)* at Ecowas Secretariat, Abuja, 6-8 October, 2008.

[40]*Ibid.*

[41] Report of the Transition Monitoring Group on 2003 General Elections cited in Michael Oddih, "Electoral fraud and the democratic Process: Lessons from the 2003 Elections,: in Attahiru Jega and Okechukwu Ibeanu (eds.), "Elections and the Future of Democracy in Nigeria", *A Publication of the Nigerian Political Science Association.*, 2007.

[42] Inaugural speech of President Umar Musa Yar' Adua on 29 May, 2007 at Eagles Square Abuja.

[43]Ubanyionwu. C. J., "Fight against political Corruption in Nigeria: The Journey so far" Faculty of Law, Nnamdi Azikiwe University, Awka, Journal of Public & Private Law, Vol. 4, 2011, pp. 244-256.

[44]*Ibid.*

[45]*Ibid*.

result of the violence in some parts of the State a dusk to dawn curfew was imposed on Ekpan and Effurun in UvwieLocal Government.[46]

(e) Other States that were overtaken by violence because of the elections, especially after results were declared included Anambra, Enugu, Imo, Kano, Gombe and Rivers.[47]

3.3 The 2011 General Elections

On the number of people arrested in their attempts to snatch ballot boxes, the Chairman of INEC, Prof. Jega said that about 7 people were arrested in Nasarawa, apart from the one in Bayelsa State where a sitting Senator was involved in an attempt to snatch ballot boxes.[48]At Oporoma, headquarters of Southern Ijaw Local Government Area, it was gathered that ex-militant commander, Eris Paul (alias Ogun boss) and his boys were also said to have hijacked election material from INEC officials for some unnamed PDP candidate.[49]At Odomi and Agbere communities in Sagbama Local Government Area, the special adviser to the governor on security matters, Richard Kpodoh also allegedly hijacked election material to unknown destination while the senatorial result sheet was also carted away at Adagbabiri community in the same local government area by a group of youths.[50] It was alleged that JTF impounded a car loaded with ammunition in the house of a House of Representatives aspirant in Kwale, Ndokwa West Local Government Area of Delta State. The politician was said to be distributing guns to his boys when the military personnel invaded the house and shot sporadically to scare the residents who were said to have escaped leaving the car behind.[51]

3.4 2019 General Elections

The 2019 general elections also saw significant instances of violence. In States such as Rivers, Lagos, and Kano, there were reports of armed attacks on polling stations, ballot box snatching, and voter intimidation. These incidents underscored the persistent challenges in ensuring peaceful and credible elections in Nigeria. Despite efforts by INEC and security agencies, the elections were marred by violence, which affected voter turnout and the overall credibility of the electoral process.[52]

4. Root Causes of Electoral Violence in Nigeria

There are many root causes of electoral violence in Nigeria**.** We are going to examine some of them. Those to be examined are ethno-religious divisions, political corruption and weak institutions, poverty and unemployment.

4.1 Ethno-Religious Divisions

One of the primary root causes of electoral violence in Nigeria is the deep-seated ethno-religious divisions within the country. Nigeria is a diverse nation with over 250 ethnic groups and a significant religious divide between the predominantly Muslim North and Christian South. These divisions often translate into political competition, with ethnic and religious groups vying for

[46]*Ibid*.
[47]*Ibid.*
[48]Oguwike Nwachukwu, "PDP loses in Sambo, Obasanjo, Bankole Units, Sunday Independent, April 10, 2011, p.2.
[49]*Ibid.*
[50]*Ibid.*
[51]*Ibid.*
[52]Premium Times, *Nigeria's 2019 Elections: A Call for Reflection*, (2019).

power and resources. This competition frequently results in electoral violence, as seen in the post-election violence of 2011, which had strong ethno-religious undertones.[53]

4.2 Political Corruption and Weak Institutions

Political corruption and weak institutions are also significant contributors to electoral violence. Electoral fraud, vote rigging, and the manipulation of election results are common practices in Nigeria. These actions undermine the credibility of elections and lead to violence as aggrieved parties seek to redress perceived injustices. The lack of robust and independent institutions to enforce electoral laws and adjudicate disputes further exacerbates this problem.[54]

4.3 Poverty and Unemployment

High levels of poverty and unemployment provide a fertile ground for electoral violence. Many youths are easily mobilized for violent activities due to their economic disenfranchisement. Politicians exploit this vulnerability by hiring thugs to intimidate opponents and disrupt voting processes. This practice was evident in the 2007 elections, where political thugs were used to intimidate voters and snatch ballot boxes.[55]

5 Socio-political and Economic Impacts of Electoral Violence

Below are the socio-political and economic impacts of electoral violence in Nigeria.

a. Political Instability

Electoral violence contributes significantly to political instability in Nigeria. It undermines the democratic process and erodes public confidence in the electoral system. Frequent incidents of violence during elections create a climate of fear and uncertainty, discouraging voter participation and weakening democratic institutions. The 2007 and 2011 elections are notable examples where electoral violence led to significant political instability.[56]

b. Economic Disruption

The economic impact of electoral violence is substantial. Violent incidents during elections often lead to the destruction of property and infrastructure, disrupting economic activities. Businesses are forced to close, and the movement of goods and services is hindered. The post-election violence in 2011, which resulted in widespread destruction and displacement, had severe economic repercussions for the affected regions.[57]

c. Social Disintegration

Electoral violence exacerbates social divisions and fosters a culture of impunity. It deepens existing ethno-religious and regional divides, making reconciliation and national unity more challenging. Communities affected by violence often experience long-term social disintegration, as trust among different groups diminishes. This was evident in the aftermath of the 2011 post-election violence, which left lasting scars on inter-communal relations in the affected areas.[58]

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[53]Human Rights Watch, *Nigeria: Post-Election Violence Killed 800*. (2011).
[54]Nwolise, O. B. C., *The Nigerian Electoral Process and the Imperative of Reform*, African Journal of Political Science and International Relations, 1(1), (2007), 1-15.
[55]Ojo, E., *Electoral Malpractice and Democratic Stability in Nigeria*, Journal of Political Science, 34(2), (2019), 199-218.
[56]Human Rights Watch, *Nigeria: Post-Election Violence Killed 800,* (2011).
[57]Premium Times*Nigeria's 2019 Elections: A Call for Reflection,* (2019).
[58]International Crisis Group, *Nigeria's Elections: Avoiding a Political Crisis*, (2011).

6. Legal frameworks for combating Electoral Violence in Nigeria

In order to ensure that law and order is maintained, the Constitution[59] created the Nigeria Police. Section 214 (1) of the said Constitution[60] provides as follows:-

> *There shall be a police force for Nigeria, which shall be styled the Nigeria police force and subject to the provision of this section, no other police force shall be established in the federation or any part thereof.*

The statutory duties and functions of the Nigerian police force are clearly defined under section 4.[61] The duties are as follows:- (i) the protection of life and property; (ii) the prevention and detection of crime; (iii) the apprehension of offenders; (iv) the preservation of law and order; and (v) the enforcement of all laws and regulations with which they are directly charged, as well as performance of such military duties within and without Nigeria as may be required of them.

It should be noted that the ability of the police to discharge these onerous duties in our electoral process is still doubtful.

The Electoral Act 2022[62] contains some provisions aimed towards curbing electoral violence in Nigeria.

7. Onus of Proof, Presumption of Regularity of Election Results and Electoral Violence

In election petitions, the petitioner bears the burden of proving their case by providing credible evidence. The standard of proof is generally higher than in regular civil cases, especially when allegations of criminal conduct are involved. The Supreme Court in *Buhari v. Obasanjo*[63]highlighted the necessity for petitioners to prove allegations of electoral malpractice beyond reasonable doubt. In this landmark case,[64] General Muhammadu Buhari, the presidential candidate of the All Nigeria Peoples Party (ANPP), challenged the election of President Olusegun Obasanjo of the People's Democratic Party (PDP). Buhari alleged widespread electoral malpractices, including ballot box stuffing, multiple voting, and violence. The Supreme Court of Nigeria held that the petitioner must prove allegations of electoral fraud beyond reasonable doubt. The Court emphasized that mere allegations were insufficient without concrete evidence to support the claims. The decision of the apex court is in line with Section 135(1) of the Evidence Act 2011 which provides that the burden of proof in criminal cases is to establish the guilt of the accused beyond reasonable doubt. This standard is equally applicable in election petitions involving allegations of criminal conduct such as electoral fraud, bribery, and violence.

Also in *Awuse v. Odili*[65]the petitioner, Sergeant Awuse, challenged the election of Dr. Peter Odili as Governor of Rivers State. The petitioner alleged that the election was marred by violence and intimidation. The Court of Appeal, while affirming the necessity of proving criminal allegations beyond reasonable doubt, stated that the evidence presented by the petitioner must be credible and cogent. The Court dismissed the petition due to insufficient evidence to substantiate the claims of electoral malpractice. In *Ojukwu v. Yar'Adua*[66]Chief Emeka Odumegwu Ojukwu challenged the

[59] The Constitution of the Federal Republic of Nigeria 1999 (as amended).
[60]*Ibid.*
[61] Section 4 of the Police Act Cap P19, Laws of the Federation of Nigeria 2004.
[62] Electoral Act, 2022, see Sections 114 to 129.
[63](2005) 13 NWLR (Pt. 941) 1.
[64]*Ibid*.
[65](2004) 8 NWLR (Pt. 876) 481.
[66](2008) 4 NWLR (Pt. 1078) 436.

election of President Umaru Musa Yar'Adua, alleging substantial non-compliance with the Electoral Act. The Supreme Court reiterated that for an election to be nullified on the grounds of electoral fraud, the petitioner must establish the alleged irregularities beyond reasonable doubt. The Court found that the petitioner failed to provide sufficient evidence to prove the allegations, thereby upholding Yar'Adua's election.

In view of the burden of proof of allegations of crime in election petition cases, one wonders how such heavy burden should rest squarely on the petitioner who lost the election. As a result of the heavy burden placed on the petitioner, politicians see election as a do - or - die affair because once elected, the petitioner who lost the election would be unable to discharge the onus placed on him by the law to prove the allegations of crime beyond reasonable. In some cases, the respondent would dare the petitioner to go to court knowing full well the hurdles on the way of the petitioner to reclaim his mandate. I shall use the case of *Chief Mrs. Anike Olowoporoku&Orsv. Ekiti State Electoral Commission &Ors*[67] to show case the extent a sitting governor, Fayose, could go to make sure that his party remained in power. One of the three police personnel who testified for the petitioner during the hearing of the petition gave vivid account of the role played by governor Fayose thus:

> Voting started 9 O' clock and around 9:30, governor Fayose and some mobile police came to me with his entourage. The governor greeted me, 'well done' he said he wanted us to cooperate, and I asked how, he said he wanted to collect the ballot papers and put them in the box. I said no. He said if I refused, he would carry the box away. I told him the DPO has instructed us to take care of the box and maintain peace. He ordered some persons following him to carry the box. I held the box and struggled for it with them. They pushed me down and collected my baton. Before I stood up, the ballot box had been taken away. They fired into the air as they were going. I hid somewhere till they left. I came out later and went to the station. I discovered there was commotion everywhere. They were singing as they were going in Yoruba which translated to "let everybody warn his ward as today will be tough." Some villains followed the governor in addition to mobile police without tags…

Considering the case of*Chief Mrs. Anike Olowoporoku &Ors v. Ekiti State Electoral Commission &Ors*[68]one wonders how the allegations of commission of crime would be discharged by the petitioner in the circumstances of this case. In *Oni v. Odeyinka*[69]the court held as follows:

An allegation of corrupt practices during an election amounts to an allegation of a criminal act; and the petitioner who makes such allegation has the onus to prove the allegation beyond reasonable doubt as provided by section 138 of Evidence Act, See Ughamadu v. Ndibe (2010) 46 WRN 55 at 103 lines 5 - 30

It should be noted that in proving falsification of result in an election petition, it is basic that there should be in existence at least two results, one is genuine while the other considered falsified. The onus of producing the said two results is invariably on the petitioner and not on the respondents. Mere assertion that the figures in the result of an election were falsified is not sufficient to sustain

[67] Unreported suit No. EPT/EKLG/27/2004 reported in the Daily Independent, Thursday, June 21, 2007, p.3.
[68]*Supra*.
[69] (1988) 8 NWLR (Pt. 562) 425.

an allegation of falsification of election result.[70]One wonders how the petitioner would tender the two results forcefully taken away from the electoral officials by the respondent(s) and/or his agents.

In view of the above, there is need to have a rethink on the issue of onus of proof, presumption of regularity of election results whenever there is electoral violence.

8. Conclusion

The declaration and validation of election results in Nigeria are governed by a robust legal framework designed to ensure transparency, accuracy, and fairness. The Constitution and the Electoral Act provide clear guidelines on the processes and criteria for determining election results. Judicial precedents, such as *Buhari v. Obasanjo*[71] and *Ojukwu v. Yar'Adua*,[72] reinforce the principles of majority rule, substantial compliance, and the burden of proof in election petitions. These legal standards are crucial in upholding the integrity of the electoral process and ensuring that the results reflect the genuine will of the electorate. At the same time, some amendments should be introducedin our law to do away with presumption of regularity of election results declared by electoral umpire where electoral violence occurred during the election. Electoral violence and malpractices have been on the increase since independence. There is need for strict enforcement of the provision to the Constitution, Electoral Act and Criminal or Penal Code dealing with electoral violence and the prosecution of all those apprehended in the commission of these crimes. The burden of proof that the elections are free and fair should rest on the electoral empire. There is need to revisit the legislative proposal to create an Electoral Offences Commission along the lines suggested in the Uwais commission's report on electoral reforms. I am of the firm conviction that a body solely established to deal with the problem of prosecuting electoral offences will be more effective in terms of recruiting the requisite staff and concentrating on the discharge of its mandate. The Constitution of the Federal Republic of Nigeria 1999 (as amended) should be amended to remove totally the immunity clause enjoyed by the president, governors and their deputies so that their excesses during elections should be checkmated. Concerted efforts should be made to combat youth unemployment. It is time we look at the salaries and emoluments of political office holders. Their salaries and emoluments should be made to be unattractive so that the do-or-die syndrome obtainable in our polity would be reduced to the barest minimum. The agencies of government charged with mass education should rise up to their duties. A properly educated and informed public will not only see the ills of electoral violence and refrain from it but will also help Nigerians take the right political positions about issues and policies. It is my belief that with the implementation of the measures outlined above and appropriate funding and equipping of our security outfits, the nation will experience less of politically motivated violence.

[70] See *Bello v. Aruwa* (1999) 8 NWLR (Pt. 615) 454, *Seikpa v. Penawou* (1999) 9 NWLR (Pt. 618) 354, *Hashidu v. Goje* (2003) 15 NWLR (Pt. 843) 352.
[71] *Supra*.
[72] *Supra*.