

APPRAISAL OF THE OFFENCES OF DESTRUCTION OF ELECTION MATERIALS AND OBSTRUCTION OF ELECTORAL PROCESS UNDER THE ELECTORAL ACT 2022*

Abstract

Offences relating to destruction of election materials and obstruction of electoral process have elaborate provisions under the Electoral Act 2022. These offences are prevalent in all the elections in Nigeria since independence. These offences affect the integrity of the electoral process. These offences are explicitly defined in the Electoral Act 2022. These offences are serious violations of the electoral process and are treated with strict penalties under the Nigerian law. The judiciary plays a crucial role in addressing these offences. The prevalence of these offences in our electoral system in Nigeria is so alarming and that necessitated the writer to focus his searchlight into these offences with the aim of reducing these offences to their barest minimum for the purpose of strengthening Nigeria's democratic space. Doctrinal research methodology was adopted in this work. The work came to the conclusion that these offences are the major threat to achieving free and fair elections in Nigeria. The work proffers solutions towards eradicating these menaces for the benefit of our nascent democracy.

Keywords: Offences, Destruction, Election Materials, Obstruction, Electoral Process, Electoral Act 2022.

1. Introduction

The Electoral Act 2022 specifies certain offences that undermine the integrity of the electoral process in Nigeria. These offences are not limited to the offences of destruction of electoral materials and obstruction of the electoral process. The offences of destruction of electoral materials and obstruction of the electoral process are explicitly defined and provided for in the Electoral Act 2022 and other relevant statutory provisions. There are other statutes¹ that provided for these offences but we examined these offences as provided for in the Electoral Act 2022. In Nigeria, such offences abound because our politicians see elections as a do or die affair. These offences are the major threat to achieving free and fair elections in Nigeria. This work examined the extent politicians can go to 'capture' power in Nigeria. Instances of these offences were fully discussed. This article is aimed at reducing these offences to their barest minimum for the purpose of strengthening Nigeria's democratic space. This will go a long way in upholding electoral integrity with the aim of reducing the said offences to their barest minimum.

2. The Concept of Electoral Offence

The Electoral Act 2022 and previous Electoral Act² did not define electoral offences. It is therefore necessary to search for its meaning elsewhere. Oxford Advanced Learner's Dictionary³ defines offences as 'an illegal act or a crime,' and it⁴ equally defines crimes as 'activities that involves breaking the law' or 'an illegal act or activity that can be punished by law.' Offences in this perspective are synonymous with crimes.⁵ Henry Campbell Black defines 'offence' as 'a felony or misdemeanor; a breach of the criminal laws; violation of law for which penalty is prescribed ... an act clearly prohibited by the lawful authority of the State, providing notice through published laws.'⁶ According to Black's Law Dictionary,⁷ 'offence is the violation of the law.' The term 'crime,' 'offence,' and 'criminal offence' are all said to be synonymous and ordinarily used interchangeably. Offence may comprehend every crime and misdemeanor, or may be used in a specific sense as synonymous with 'felony' or with 'misdemeanor,' as the case may be, or as signifying a crime of lesser grade, or an act not indictable, but punishable summarily or by the forfeiture of a penalty.⁸ In the electoral system, such offences abound. The specifications of these offences in the Electoral Act 2022 are in obedience to section 36 (12) of the Constitution⁹ which provides that 'subject as otherwise provided by this constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty thereof is prescribed in a written law, and in this subsection, a written law refers to an Act of the National Assembly or a law of a State, any subsidiary legislation or instrument under the provisions of a law.'

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¹ See the Criminal Code Act and the Penal Code Act. These Codes made provisions for these offences.

² Electoral Acts 1978, 1983, 2002, 2006 and 2010.

³ AS Hornby, *Oxford Advanced Learner's Dictionary*, 7th Edition, Oxford University Press, 2005, 439.

⁴ *Ibid*, at page 363.

⁵ B. Nwakanma and N. Olehi, *Laws Governing Elections and Election Petitions*, Edu – Edy Publications, Owerri, 2007, 187.

⁶ *Ibid*, at p. 1081.

⁷ BA Garner, *Black's Law Dictionary*, 8th Edition, Thomson West, USA, 2004, p.1110.

⁸ *Ibid*.

⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended).

Accordingly, any act or omission which is not provided for in the Electoral Act¹⁰ or other relevant statutes¹¹ cannot constitute an electoral offence. These offences are prescribed in Part VII of the Electoral Act, 2022. Offences of destruction of electoral materials and obstruction of the electoral process are the subject matter of this work. In *Daggash v. Bulama*¹² the court emphasized the seriousness of electoral offences and upheld strict penalties to deter such conduct.

3. Meaning of Destruction of Electoral Materials

Destruction of electoral materials refers to the act of intentionally damaging, defacing, destroying, or unlawfully removing materials used in the conduct of an election. Electoral materials include ballot papers, result sheets, voter cards, and any other materials provided by the Independent National Electoral Commission (INEC) for the conduct of elections. Under the Electoral Act 2022, such acts are considered serious electoral offences due to their potential to undermine the integrity and credibility of the electoral process. The Electoral Act 2022 contains specific provisions addressing the destruction of electoral materials. Section 115(1) (b)¹³ stipulates that any person who willfully defaces or destroys any nomination paper or result form commits an offence and is liable on conviction to a maximum term of imprisonment for two years. There is no option of fine in this offence. This shows the gravity of the offence in question. The intention behind the destruction, mutilation, or removal must be to falsify the election results or to prevent the election from being properly conducted. These provisions reflect the law's intention to safeguard the electoral process and ensure that any interference with electoral materials is met with severe penalties. In *Nwobodo v Onoh*,¹⁴ the appellant, Chief Jim Nwobodo, contested the governorship election results in Anambra State, alleging that there was widespread destruction of ballot papers and other electoral materials in several polling units. The destruction was purportedly carried out to manipulate the election results in favor of the respondent, Chief C.C. Onoh. The Supreme Court held that the destruction of electoral materials, if proven, would significantly affect the outcome of the election and could justify the annulment of the results from the affected polling units. The case emphasized the critical role of electoral materials in ensuring the credibility of elections. This case underscores the significance of protecting electoral materials as key components in upholding electoral integrity. See *Aregbesola v Oyinlola*.¹⁵ In *Ojukwu v. Yar'Adua*,¹⁶ Chief Emeka Ojukwu challenged the 2007 presidential election, alleging that there was widespread destruction of electoral materials in several States. He claimed that the destruction was orchestrated to manipulate the election in favor of the then President, Umaru Yar'Adua. The Supreme Court noted that while there was evidence of irregularities, including the destruction of electoral materials, the petitioner failed to prove that these acts substantially affected the outcome of the election. The court thus upheld the election results. This case demonstrates the burden of proof required in cases of alleged destruction of electoral materials, emphasizing that such acts must have a substantial effect on the election outcome to warrant an annulment.¹⁷ The destruction of electoral materials is a grave offence under the Nigerian Electoral Act 2022, reflecting the importance of protecting the integrity of the electoral process. The relevant statutory provisions and case law illustrate the severe consequences for such actions, including the potential annulment of election results and criminal penalties for those involved.

4. Meaning of Obstruction of Electoral Process

Obstruction of the electoral process refers to any action or inaction that hinders, delays, or prevents the smooth conduct of electoral activities, such as voter registration, voting, counting of votes, and the declaration of results. The Electoral Act 2022 provides specific provisions that criminalize such conduct to ensure free, fair, and credible elections. It is an offence for any person to obstruct or interfere with the conduct of elections. Section 128 of the Act¹⁸ criminalizes interference with electoral processes by threatening or using violence against electoral officials, candidates, or voters. Section 128 of the Act¹⁹ provides that (a) 'any person who directly or indirectly, by his or herself or by another person on his or her behalf, makes use of or threatens to make use of any force, violence or restraint; (b) inflicts or threatens to inflict by his or herself or by any other person, any minor or serious injury, damage, harm or loss on or against any person in order to induce or compel that person to vote or refrain from voting, or on account of such person having voted or refrained from voting; (c) by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free use of the vote by a voter or thereby compels, induces, or prevails on a voter to give or refrain from giving his vote; or (d) prevents any political aspirant from free use of the media, designated vehicles, mobilization of political support and campaign at an election, commits an offence and is liable on conviction to a fine of N1, 000, 000 or imprisonment for a term of three (3) years.' In *Ojukwu v. Yar'Adua*,²⁰ the petitioner, Chief Emeka Ojukwu, challenged the conduct of the

¹⁰ Electoral Acts 2022.

¹¹ For example, the Criminal and Penal Codes; and other relevant statutes.

¹² (2004) 14 NWLR (Pt. 892) 144.

¹³ Electoral Act 2022.

¹⁴ (1984) 1 SCNLR 1.

¹⁵ (2011) 9 NWLR (Pt. 1253) 458.

¹⁶ (2009) 12 NWLR (Pt 1154) 50.

¹⁷ See also *Fayemi v Oni* (2010) 17 NWLR (Pt. 1222) 326; *Obi v INEC* (2007) 11 NWLR (Pt. 1046) 565.

¹⁸ Electoral Act 2022.

¹⁹ *Ibid.*

²⁰ (2009) 12 NWLR (Pt 1154) 50.

2007 presidential election on the grounds that the election was marred by widespread violence and obstruction of the electoral process, particularly in the South-East region. He argued that these irregularities were significant enough to affect the outcome of the election. On appeal, the Supreme Court, in dismissing the appeal, held that while there were indeed instances of violence and obstruction, the irregularities did not substantially affect the overall result of the election. The court emphasized that for an election to be nullified, the irregularities must be proven to have affected the outcome substantially.²¹

5. Offences of Destruction of Electoral Materials and Obstruction of Electoral Process under the Electoral Act 2022

Under the Electoral Act 2022, certain acts are explicitly prohibited by the Act including destruction of electoral materials and obstruction of electoral process which is the aim of this work. The essence of having these offences is to ensure the integrity, fairness, and peaceful conduct of elections. These prohibited acts are designed to prevent electoral malpractice. We shall briefly examine these offences.

5.1. Offence of Destruction of Electoral Materials

Section 126 (4)²² criminalizes the destruction or unauthorized removal of electoral materials, including ballot papers, boxes, voters' registers, or any other official documents used in the election. The said subsection provides that any person who snatches or destroys any election material or any election device, commit an offence and is liable to imprisonment for a term of 24 months. There is no option of fine with regards to this offence. This is contrary to what was obtainable under the Electoral Act 2010. In *INEC v Action Congress*,²³ the court held that the destruction of electoral materials before, during, or after voting could invalidate the election in the affected areas. The integrity of the electoral process depends on the security and preservation of electoral materials.

Instances of destruction of electoral materials in Nigeria during elections are common occurrences during elections. Such actions are typically aimed at disrupting the electoral process, preventing the accurate counting of votes, and undermining the legitimacy of the election results. Some instances of cases involving the destruction of electoral materials are herein discussed. In *Oshiomhole v. INEC*²⁴ that pertains to the 2007 gubernatorial election in Edo State, there were widespread reports of the destruction of electoral materials, including ballot papers, result sheets, and ballot boxes. Armed thugs, allegedly sponsored by political actors, attacked several polling stations, burning and tearing up electoral materials to prevent the collation of results in areas where the opposition candidate, Adams Oshiomhole, was popular. The Election Petition Tribunal annulled the election, citing substantial evidence of destruction of electoral materials. The tribunal ordered a rerun of the election, which Oshiomhole eventually won. The court stressed that the integrity of the electoral process was compromised by the destruction of materials, making it impossible to determine the true outcome of the election. This case underscores the importance of safeguarding electoral materials to ensure the accuracy and legitimacy of election results. The judgment highlights the judiciary's role in rectifying electoral malpractices and protecting the democratic process from sabotage. See *Areghesola v Oyinlola*²⁵ and *Ngige v Obi*.²⁶ In *PDP v. INEC & Ors*,²⁷ during the 2011 general elections, there were several instances of the destruction of electoral materials across different States of the federation, notably in the Niger Delta region. Political thugs targeted areas where the opposition had strong support, destroying ballot boxes and result sheets in a bid to disrupt the collation process. The Peoples Democratic Party (PDP) filed a petition against INEC, alleging that the widespread destruction of materials had compromised the integrity of the elections. The Court of Appeal acknowledged the evidence of destruction but held that it was not widespread enough to affect the overall outcome of the election. However, the court ordered INEC to investigate and prosecute those responsible for the destruction of materials to prevent future occurrences. This case underscores the need for accountability in cases of electoral offences relating to the destruction of electoral materials. While the judgment did not overturn the election results, it emphasized the importance of prosecuting those responsible for such acts to deter future violations.²⁸

Statutory Provisions on Destruction of Electoral Materials

The Electoral Act 2022 provides a comprehensive legal framework for conducting elections in Nigeria, with specific provisions addressing the destruction of electoral materials. Section 115(1) (f)²⁹ criminalizes the willful destruction of ballot paper or official mark on any ballot paper or any certificate of return or result form. The offence carries maximum term of imprisonment for two years.³⁰ The court is empowered to nullify election results in areas where the destruction of materials has affected the

²¹ *Abubakar v INEC*²¹ and *Buhari v. Obasanjo* (2005) 13 NWLR (Pt. 941) 1.

²² Electoral Act, 2022.

²³ (2009) 2 NWLR (Pt. 1126) 524.

²⁴ (2008) 3 NWLR (Pt 1076) 77.

²⁵ (2009) 14 NWLR (Pt. 1162) 429.

²⁶ (2006) 14 NWLR (Pt. 999)1.

²⁷ (2012) LPELR-9228(CA).

²⁸ See also *Wabara v INEC* (2010) 11 NWLR (Pt. 1206) 606.

²⁹ Electoral Act 2022.

³⁰ *Ibid*, subsection (1) (k).

UBANYIONWU: *Appraisal of the Offences of Destruction of Election Materials and Obstruction of Electoral Process under the Electoral Act 2022*

outcome, ensuring that the integrity of the electoral process is maintained. The Criminal Code Act³¹ under Section 451 provides that any person, who willfully destroys or damages any property, including electoral materials, is guilty of an offense and liable to imprisonment. The scope of this work is restricted to the Electoral Act 2022.

Theories of Law Relating to the Destruction of Electoral Materials

The destruction of electoral materials under the Electoral Act 2022 is governed by several legal theories, which serve to protect the integrity of the electoral process and ensure that elections are free, fair, and credible. The theories are:

Theory of Electoral Integrity

Electoral Integrity is the principle that elections should be conducted in a manner that is transparent, fair, and free from any form of manipulation. The destruction of electoral materials undermines this principle by distorting the electoral process and potentially altering the outcome of an election. This theory supports strict penalties for actions that threaten the fairness of elections. In *Aregbesola v. Oyinlola*,³² Rauf Aregbesola challenged the election of Olagunsoye Oyinlola as the Governor of Osun State, alleging that electoral materials were destroyed to manipulate the election results. The Court of Appeal found that the destruction of electoral materials significantly compromised the integrity of the election and annulled the results from the affected areas. The judgment in this case highlights the judiciary's role in safeguarding electoral integrity by nullifying elections where the integrity of the process has been compromised.

Theory of Public Trust

The Theory of Public Trust posits that electoral materials, as tools of democracy, are held in trust by the electoral body (INEC) on behalf of the people. Any act that destroys or tampers with these materials is a breach of this trust and an affront to the democratic process. Section 115(1) (b)³³ criminalizes the destruction of electoral materials, emphasizing the responsibility of individuals and institutions to protect these materials as part of the public trust. The inclusion of this provision in the Electoral Act reinforces the notion that electoral materials are public assets, whose integrity must be preserved. In *Fayemi v. Oni*,³⁴ the petitioner argued that the destruction of electoral materials during the Ekiti State gubernatorial election was a violation of the public trust placed in the electoral body. The Court of Appeal agreed and annulled the election results from the affected areas, ordering a rerun. This case underscores the legal duty of electoral bodies to maintain the integrity of electoral materials, reflecting the broader principle of public trust.

Theory of Substantial Compliance

The Theory of Substantial Compliance holds that an election should be upheld if it can be demonstrated that, despite any irregularities (such as the destruction of electoral materials), the election substantially complied with the relevant laws and the irregularities did not affect the overall outcome. In *Ojukwu v. Yar'Adua*,³⁵ the petitioner challenged the 2007 presidential election, alleging that the destruction of electoral materials had compromised the election's credibility. The Supreme Court ruled that while there were irregularities, the election substantially complied with the law and the outcome was not significantly affected by the destruction of materials. This case illustrates the application of the substantial compliance doctrine, where the court focuses on whether the overall integrity of the election was preserved despite specific irregularities.

Theory of Electoral Accountability

The Theory of Electoral Accountability asserts that individuals or entities involved in the destruction of electoral materials must be held accountable to prevent future occurrences and maintain public confidence in the electoral system. The Electoral Act 2022 provides for criminal penalties for those found guilty of destroying electoral materials, ensuring that such acts are met with appropriate sanctions to uphold electoral accountability. By criminalizing the destruction of electoral materials, the law enforces electoral accountability, deterring potential offenders. In *Obi v. INEC*,³⁶ Peter Obi contested the 2007 gubernatorial election in Anambra State, arguing that the destruction of electoral materials was an act of electoral malpractice. The court held that such destruction could lead to the invalidation of election results if it significantly impacted the outcome, thereby reinforcing the need for accountability. This case demonstrates the judiciary's role in enforcing accountability for actions that undermine the electoral process.

Theory of Free and Fair Elections

The Theory of Free and Fair Elections emphasizes that every eligible voter should have an equal opportunity to participate in an election, and the election must be conducted transparently and without interference. The destruction of electoral materials violates this theory by potentially disenfranchising voters and skewing election results. In *Nwobodo v. Onoh*,³⁷ Chief Jim Nwobodo alleged that the destruction of electoral materials during the governorship election in Anambra State was intended to disenfranchise voters and manipulate the election outcome. The Supreme Court agreed that such actions could undermine the principle of free and fair elections and annulled the results from the affected areas. This case underscores the importance of preserving electoral materials to ensure that elections are free, fair, and reflective of the will of the people.

³¹ Cap C38, LFN 2004.

³² (2011) 9 NWLR (Pt. 1253) 458.

³³ Electoral Act 2022.

³⁴ (2010) 17 NWLR (Pt 1222) 326.

³⁵ (2009) 12 NWLR (Pt. 1154) 50.

³⁶ (2007) 11 NWLR (Pt 1046) 565.

³⁷ (1984) 1 SCNLR 1

5.2. Offence of Obstruction of the Electoral Process

The Electoral Act, 2022 makes it an offence to obstruct or hinder the proper conduct of elections. This includes blocking access to polling stations, disrupting the counting process, or interfering with the transmission of election results.³⁸ Obstruction of the electoral process can equally include snatching of ballot boxes and destruction of electoral materials. Ballot box snatching involves forcibly taking away ballot boxes from polling units, often accompanied by violence or intimidation. This offence aims to disrupt the voting process or manipulate the results by tampering with the ballots. Disorderly conduct can equally come into the umbrella of obstruction of the electoral process. Disorderly conduct includes any behavior that disrupts the voting process, such as violence, intimidation, or any act that creates an atmosphere of fear among voters. This offence can prevent voters from freely exercising their right to vote. These are most prevalence electoral offences in Nigerian elections.³⁹

These prohibited acts and the corresponding legal provisions are crucial in ensuring that elections in Nigeria are conducted fairly, transparently, and without undue influence or coercion.

Theories of Obstruction of Electoral Process

Theories regarding the obstruction of the electoral process under the Electoral Act 2022 can be understood through different legal lenses that focus on the intent, effect, and scope of the obstruction. The theories revolve around the purpose behind the obstruction, the extent of its impact on the electoral process, and the legal consequences thereof. These theories are critical in determining whether an act of obstruction is sufficiently serious to affect the legitimacy of an election. The theories to be discussed are as follows:

Intentional Obstruction Theory

This theory emphasizes the intent behind actions that obstruct the electoral process. Under this theory, an act qualifies as obstruction if it is carried out with the specific intention of disrupting, delaying, or preventing an electoral process. The key element is the malicious intent to interfere with the proper conduct of the election. In *Ojukwu v. Yar'Adua*,⁴⁰ the appellant alleged that the widespread violence and obstruction in the South-East region during the 2007 presidential election were deliberate acts intended to skew the election results. The Supreme Court acknowledged the instances of obstruction but found that they did not substantially affect the overall result, as there was insufficient evidence to prove the intent behind the actions.

Effect-Based Obstruction Theory

This theory considers the actual impact of the obstructive acts on the electoral process. The primary focus is on whether the obstruction had a substantial effect on the outcome of the election. Under this theory, even if the intention was not malicious, the effect of the obstruction is paramount. In *Buhari v. Obasanjo*,⁴¹ the appellant argued that the widespread obstruction and violence during the 2003 presidential election, particularly in the South-South and South-East regions, had a significant effect on the election results. The Supreme Court held that while there were irregularities, they were not substantial enough to affect the outcome. The court emphasized that the effect of the obstruction must be significant to warrant the annulment of the election.⁴²

Scope of Obstruction Theory

This theory addresses the extent and pervasiveness of the obstruction across different parts of the electoral process. It examines whether the obstruction was localized or widespread and whether it affected critical stages of the electoral process such as voting, counting, or result declaration. In *Abubakar v. INEC*,⁴³ the petitioner claimed that security agencies obstructed the electoral process in Northern States, leading to voter disenfranchisement and a skewed election result. The Court of Appeal found that the obstruction, although present, was not widespread enough to affect the overall outcome of the election. The court focused on the scope of the obstruction in relation to the entire electoral process.

Legal Consequence Theory

This theory is concerned with the legal consequences that follow an act of obstruction. It assesses the penalties and remedies available under the law for acts that obstruct the electoral process, including fines, imprisonment, or annulment of election results. In *Oshiomhole v. Airhiavbere*,⁴⁴ the petitioner alleged that there was obstruction and violence in certain polling units during the 2012 Edo State governorship election, which should lead to the annulment of the results in those units. The Court of Appeal held that while there were irregularities, the obstruction was not sufficient to annul the entire election but did lead to the cancellation of results in the affected polling units. The Electoral Act 2022 provides for penalties, including fines and imprisonment, for those found guilty of obstructing the electoral process.

³⁸ See section 125 of the Electoral Act 2022.

³⁹ See *PDP v INEC Supra*; *INEC v Wike* (2014) 3 NWLR (Pt. 1394) 395; *Aregbesola v Oyinlola* (2009) 14 NWLR (Pt. 1167) 424.

⁴⁰ (2009) 12 NWLR (Pt 1154) 50.

⁴¹ (2005) 13 NWLR (Pt 941) 1.

⁴² See section 134(1) of the Electoral Act 2022.

⁴³ (2004) 1 NWLR (Pt 854) 207.

⁴⁴ (2013) 4 NWLR (Pt. 1345) 377.

Statutory Provisions on Obstruction of Electoral Process

The Electoral Act, 2022 provides provisions to address and prevent obstruction of the electoral process. Section 115(1)⁴⁵ criminalizes any act of obstruction of the electoral process, including blocking polling stations, preventing election officials from performing their duties, or tampering with election materials. Offenders are subject to imprisonment. The Electoral Act allows the court to nullify election results in areas where obstruction has significantly impacted the election process, ensuring that the electoral process is fair and transparent.

Instances of Obstruction of the Electoral Process in Nigeria during Elections

Obstruction of the electoral process in Nigeria often involves deliberate actions that interfere with the conduct, administration, or outcome of elections. These obstructions can range from physical blockades and violence at polling stations to tampering with electoral materials and processes. Some instances of cases involving obstruction of the electoral process in Nigeria shall be discussed here under. The case of *Falae v Obasanjo*,⁴⁶ has to do with the 1999 presidential election where Chief Olu Falae, the candidate of the Alliance for Democracy (AD), alleged that the election process was obstructed by various acts of interference. Reports indicated that supporters of the ruling party used violence to block opposition voters from accessing polling stations, tampered with ballot boxes, and disrupted the counting process to secure a victory for President Olusegun Obasanjo. The Supreme Court, while acknowledging the existence of obstructions, held that the overall impact did not warrant the annulment of the entire election. The court emphasized that while some obstructions were reported, they were not extensive enough to affect the election's overall integrity significantly. This case illustrates the challenges in addressing obstruction of the electoral process within the legal framework and highlights the judiciary's approach to evaluating the impact of such obstructions on election results. In *Tukur v. Gombe State*,⁴⁷ during the 2011 gubernatorial election in Gombe State, Tukur, a candidate, alleged that his opponents engaged in systematic obstruction of the electoral process. The allegations included the blocking of polling stations, preventing election officials from performing their duties, and physically intimidating voters and election staff. The Election Petition Tribunal found sufficient evidence of obstruction, including testimonies from election officials and voters who experienced or witnessed the blockades and violence. The tribunal annulled the results from affected areas and ordered a rerun of the election. This case demonstrates the tribunal's role in addressing systematic obstructions and ensuring that elections are conducted in a manner that allows all eligible voters to participate freely.⁴⁸ In *Ogbeh v. PDP*,⁴⁹ the 2003 general elections in Nigeria were marred by numerous instances of obstruction, particularly in areas where opposition parties were strong. Ogbeh, the candidate for the opposition party, reported that his supporters were blocked from accessing polling stations, and election materials were tampered with or withheld. This obstruction was alleged to have been perpetrated by supporters of the ruling party. The Court of Appeal found that while there was evidence of obstruction, it was not sufficiently widespread to invalidate the election results. The court called for better measures to prevent such obstructions in future elections but did not overturn the results of the election. This case highlights the need for effective preventive measures to avoid obstructions during elections and the difficulty in quantifying the impact of such obstructions on overall election results. Also, in *Akinjide v. Ojo*⁵⁰ which has to do with the 2011 election in Oyo State, there were reports of obstruction at several polling stations. Election officials were reportedly prevented from accessing polling centers, and some ballot boxes were seized or destroyed by political thugs. The obstruction was alleged to have been orchestrated to prevent a free and fair election and to ensure victory for certain candidates. The Election Petition Tribunal found that the obstruction significantly affected the election in the affected areas. The tribunal ordered the annulment of results from those areas and directed a rerun of the election. This case highlights the importance of maintaining a secure and accessible environment for elections and demonstrates the tribunal's role in correcting electoral injustices caused by obstruction.

The writer observes that many of the offences enumerated in this work were not prosecuted. The Electoral Act 2022 has substantial provisions dealing with offences discussed in this work. There is no evidence to show that the perpetrators of the said electoral offences have been apprehended not to talk of being prosecuted. The problem with this situation has to do with INEC lacking the capacity to prosecute the electoral offences. INEC deeply concentrates its energy on conducting elections thereby neglecting to prosecute electoral offenders.

6. Conclusion

The Act,⁵¹ supported by judicial pronouncements, provides a framework that penalizes actions capable of compromising the credibility of elections. By enforcing these provisions through prosecution and/or otherwise of electoral offenders, Nigeria aims to ensure that elections are conducted fairly, transparently, and in accordance with the rule of law. There is the need for INEC to live up to its responsibility in educating the citizens on the illegality and consequences of offences relating to destruction of electoral materials and obstruction of electoral process under the Electoral Act 2022. The law enforcement agencies should equally live up to their responsibilities in ensuring that the perpetrators of the offences relating to destruction of electoral materials and obstruction of electoral process are apprehended and prosecuted for the purpose of ensuring free, fair and credible elections in Nigeria.

⁴⁵ Electoral Act 2022.

⁴⁶ (1999) 6 NWLR (Pt. 607) 1

⁴⁷ (2012) 12 NWLR (Pt. 1315) 334.

⁴⁸ See *Bello v INEC* (2007) 8 NWLR (Pt. 1036) 469

⁴⁹ (2005) 7 NWLR (Pt. 925) 379.

⁵⁰ (2012) 13 NWLR (Pt1315) 203.

⁵¹ Electoral Act 2022.