
TOWARDS REFORMING THE SUBSTANTIAL COMPLIANCE DOCTRINE IN ELECTION PETITIONS IN NIGERIA*

Abstract

Reforming laws and judicial practices is essential for ensuring justice, promoting societal development, and aligning legal frameworks with contemporary needs. Through legislative amendments, judicial interpretations, and statutory revisions, legal reforms address deficiencies and provide solutions to emerging challenges in various sectors. The Electoral Act¹ contains provisions aimed at reforming Nigeria's electoral system, particularly the introduction of electronic transmission of results and enhanced procedures for voter registration. These reforms were introduced to improve transparency, reduce electoral fraud, and enhance the credibility of elections. Reforms in electoral laws demonstrate how statutory provisions can evolve to address emerging issues like technological advancements and public demand for fair elections. In this article, the writer examined in details the recommendations for reforming the substantial compliance doctrine in our electoral jurisprudence. Such recommendations include: clarifying the definition of substantial compliance in our electoral Act; strengthening the burden of proof standards; enhancing the transparency and accountability in election tribunals; providing training and guidelines for election petition judges and encouraging Alternative Dispute Resolution (ADR) mechanisms. Implementation of these recommendations will go a long way in mitigating to a reasonable extent, the hardship occasioned in the implementation of the substantial compliance doctrine in election petition cases in Nigeria.

Keywords: Recommendations, reforming, substantial compliance, election petitions.

1. Introduction

The doctrine of substantial compliance in Nigerian election petition cases, while intended to balance fairness with the need for electoral integrity, has faced criticisms for its subjective application and inconsistent outcomes. To enhance the effectiveness and fairness of the election petition process, several reforms can be considered. Reforming the substantial compliance doctrine in Nigeria's election petition process requires a multifaceted approach. By clarifying definitions, strengthening the burden of proof, implementing uniform standards, enhancing transparency, providing judicial training, and encouraging Alternative Dispute Resolution (ADR) mechanisms, the system can become more effective and equitable. These recommendations aim to address the challenges and controversies surrounding substantial compliance doctrine and ensure fairer election outcomes. This will go a long way in strengthening the democratic institutions in Nigeria.

2. Conceptual Clarifications

Reforming

The term reforming refers to the process of improving or amending an institution, law, policy, or system to correct errors, eliminate abuses, or improve functionality. In a legal context, reforming often involves altering or restructuring legal frameworks, procedural rules, or judicial practices to ensure fairness, efficiency, and justice. Legal reforms can be driven by changes in societal values, economic conditions, or technological advancements and they aim to align laws with current realities and societal expectations. Reforming is often approached through legislative actions, judicial interpretations, or executive directives. It may address areas such as criminal justice, electoral processes, economic regulations, or human rights. Legal reforms help to ensure that the law remains dynamic, responsive, and capable of addressing emerging challenges. In *Attorney General of the Federation v Alhaji Atiku Abubakar*,² which revolved around the interpretation of constitutional provisions regarding the powers of the executive and the legal procedures required for reforming certain governmental practices. The Vice President (Atiku Abubakar) challenged the legality of his removal from office based on political disagreements with the President. The case addressed the procedural and substantive legal reforms regarding the dismissal of public officeholders. The case highlighted the necessity of legal reforms to clarify ambiguities in the Constitution regarding executive powers. It demonstrated how reforming constitutional provisions can prevent arbitrary exercise of power and protect public officials from unjust removal. In *Inakoju v Adeleke*,³ that dealt with the impeachment process of a State governor in Nigeria. The governor of Oyo State was impeached without following due process, leading to questions about the validity of the impeachment under the Constitution. This case underlined the need for reforms in the impeachment process, emphasizing procedural safeguards to ensure fairness and adherence to constitutional norms. The court's decision was instrumental in highlighting the need for reforming the legal framework governing the removal of public officials to prevent abuse of power.

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¹ Electoral Act, 2022.

² (2007) 8 NWLR (Pt 1035) 117.

³ (2007) 4 NWLR (Pt 1025) 423.

Substantial Compliance

Substantial compliance in the context of election petitions in Nigeria refers to a situation where, despite minor deviations from the procedural requirements set by law, the essence of the legal requirements is met in a way that does not undermine the integrity of the electoral process. The principle emphasizes that procedural irregularities or minor errors should not invalidate an election result if the essential elements of the process have been substantially followed. The principle of substantial compliance is primarily guided by the Electoral Act, 2022⁴ which provides that certain defects should not invalidate election. The concept of substantial compliance in election petitions in Nigeria is shaped by a combination of statutory provisions, judicial precedents, and principles of electoral law. This framework aims to ensure that minor procedural errors do not unduly disrupt the electoral process or invalidate an election result if the core requirements have been substantially met. The focus on substantial compliance emerges from judicial interpretations rather than a direct statutory provision.

Election Petition

An election petition is a formal legal process through which the validity of an election result can be challenged in court. Under Nigerian law, it provides a mechanism for aggrieved candidates or political parties to contest the conduct, results, or qualification of the winner in an election. Election petitions are distinct from regular lawsuits, as they are governed by special rules, timelines, and procedures due to their critical role in safeguarding the integrity of the electoral process. In Nigerian jurisprudence, election petitions serve as a vital tool in ensuring accountability and transparency in elections. Grounds for filing an election petition typically include: (1) Non-compliance with the Electoral Act: This could involve failure to adhere to election procedures, such as improper use of voting technology or irregularities in the collation of results. (2) Corrupt practices: Allegations of vote-buying, violence, or undue influence can be raised in election petitions. (3) Disqualification of a candidate: An election can be challenged if it is proven that the declared winner was not qualified to contest, based on factors such as age, citizenship, or criminal records. (4) Election malpractice or rigging: Election petitions can allege that the outcome was manipulated through ballot stuffing, multiple voting, or other forms of malpractice.

Election petitions are typically adjudicated by Election Petition Tribunals/Courts, which are established under the Nigerian Constitution and the Electoral Act. Appeals from the decisions of these tribunals/courts may be taken to the Court of Appeal, and in some instances, the Supreme Court. In *Atiku Abubakar v Buhari*,⁵ Atiku Abubakar of the People's Democratic Party (PDP) filed an election petition challenging the 2019 presidential election, which declared Muhammadu Buhari of the All Progressives Congress (APC) as the winner. Atiku alleged that there were widespread irregularities and that INEC's failure to transmit results electronically violated the provisions of the Electoral Act. The Election Petition Tribunal and subsequently the Supreme Court dismissed the petition, affirming Buhari's election and holding that the petitioner failed to provide sufficient evidence of substantial non-compliance with the law. Section 132(7) of the Electoral Act 2022 provides that any person who is aggrieved by the outcome of an election may present a petition to an Election Tribunal or Court within 21 days after the date of the declaration of the result of the election. Also, in *Buhari v INEC*,⁶ which is a landmark case that arose from the 2007 presidential election, where General Muhammadu Buhari of the All Nigeria Peoples Party (ANPP) challenged the declaration of Umaru Musa Yar'Adua of the People's Democratic Party (PDP) as the winner. Buhari filed an election petition, alleging widespread rigging, electoral malpractice, and non-compliance with the Electoral Act. The Supreme Court, while acknowledging some irregularities, held that the petitioner failed to prove that these irregularities substantially affected the outcome of the election. Yar'Adua's victory was upheld. In *Wike v Peterside*,⁷ Dakuku Peterside challenged the election of Nyesom Wike in Rivers State, citing widespread violence and voter intimidation. While the election tribunal initially annulled the election, the Supreme Court later reversed the decision, holding that the irregularities were not substantial enough to affect the election outcome. The ambiguous definition of 'substantial' led to differing judgments at different levels of the judiciary. This lack of clarity raises the issue of predictability in electoral disputes. This case exemplifies the ambiguity in determining what level of non-compliance justifies nullifying an election.

Section 134 of the Electoral Act 2022 outlines the grounds upon which an election may be challenged through a petition, including corrupt practices, non-compliance with electoral laws, and disqualification of the winner. In *Fayemi v Oni*,⁸ Dr. Kayode Fayemi of the Action Congress of Nigeria (ACN) challenged the declaration of Segun Oni of the People's Democratic Party (PDP) as the winner of the 2007 Ekiti State governorship election. Fayemi filed an election petition alleging that the election was marred by widespread irregularities, vote manipulation, and non-compliance with electoral laws. The Election Petition Tribunal ruled in favour of Fayemi, annulling Oni's election. This judgment was upheld by the Court of Appeal, which declared Fayemi the duly elected governor of Ekiti State.

⁴ See section 135 of the Electoral Act (No. 15 of 2022).

⁵(2019) LPELR-48113(SC).

⁶(2008) 19 NWLR (Pt 1120) 246.

⁷ (2016) 7 NWLR (Pt 1512) 452.

⁸(2010) 17 NWLR (Pt 1222) 326.

See *Peter Obi v. INEC (supra)*. Election petitions play a crucial role in Nigerian electoral jurisprudence by providing a mechanism for challenging the validity of election results.

3. Substantial Compliance Doctrine in Nigeria Election Petitions through the Cases

So many cases have been decided based on the substantial compliance doctrine in election petition cases in Nigeria. Some of those cases are examined hereunder:

Ogbuabor v Ogbu.⁹ In this case, the appellant challenged the election results based on irregularities in the conduct of the election. The tribunal dismissed the petition, arguing that the irregularities were minor and did not affect the overall outcome of the election. On appeal to the Supreme Court, the Supreme Court held that for an election to be invalidated on the grounds of non-compliance with the Electoral Act, the non-compliance must be substantial and not merely procedural. The court emphasized that substantial compliance is sufficient to uphold the election result if the core requirements were met.

Dare v Afolabi.¹⁰ The petitioner in this case alleged that the election process was marred by procedural flaws. The tribunal found some procedural errors but ruled that these did not substantially affect the outcome of the election. On appeal to the Supreme Court, the Supreme Court affirmed the tribunal's decision, reinforcing that minor procedural errors do not automatically invalidate an election. The court emphasized that substantial compliance with the electoral laws is enough to sustain an election result unless the errors are grave enough to impact the integrity of the election.

Ikpeazu v Otti.¹¹ The petitioner contested the election on the grounds of numerous procedural lapses, including issues with the conduct of the election and documentation. The tribunal reviewed whether these lapses were substantial enough to affect the result of the election. The Supreme Court held that while procedural errors were present, they did not constitute a substantial breach affecting the election's outcome. The court applied the principle of substantial compliance, affirming that the election result was valid because the core electoral requirements were observed.

Makarfi v Sheriff.¹² This case dealt with internal party elections where allegations of procedural deviations were made. The petitioner claimed that these deviations significantly affected the election's legitimacy. The Court of Appeal examined whether the deviations were substantial or merely procedural. The Court of Appeal upheld the election results, applying the principle of substantial compliance. The court determined that the deviations were procedural and did not impact the overall integrity of the election. The judgment reinforced that substantial compliance with procedural requirements is sufficient to validate the election.

Bola Tinubu v Olusola Oke.¹³ The petitioner challenged the election results on grounds of procedural flaws, including issues with the recording and declaration of results. The Supreme Court reviewed whether these flaws were significant enough to affect the election's outcome. The Supreme Court upheld the election results, emphasizing that the procedural flaws were minor and did not affect the election outcome. The court applied the principle of substantial compliance, reinforcing that the election process was valid despite minor errors. The principle of substantial compliance ensures that elections are not invalidated by minor errors or procedural lapses, thus upholding the democratic process while ensuring that the core requirements are met.

4. Substantial Compliance in Nigerian Electoral Jurisprudence: Theoretical Perspective

The doctrine of substantial compliance in the Nigerian electoral process refers to the standard that electoral irregularities must be substantial enough to affect the outcome of an election for the courts to nullify it. The doctrine aims to balance between technical breaches of electoral laws and upholding the will of the electorate where the irregularities are insignificant to the overall result. The theories of doctrine of substantial compliance in Nigerian electoral process are as follows:

Substantial Compliance

The doctrine of substantial compliance is rooted in the idea that elections are primarily about the expression of the will of the people. As long as the core objective of an election, that is, the reflection of the voters' will, is met, the courts may overlook minor procedural irregularities. This theory promotes electoral stability by ensuring that not every procedural flaw results in the invalidation of the election. In *Buhari v INEC*¹⁴ General Muhammadu Buhari, the presidential candidate, challenged the 2007 election results, alleging massive irregularities. The Supreme Court upheld the election, stating that there was substantial compliance with the Electoral Act 2006 despite some

⁹(2015) LPELR-25868(SC).

¹⁰ (2018) LPELR-44359(SC).

¹¹ (2016) LPELR-40484(SC).

¹² (2017) LPELR-41922(CA)

¹³ (2022) LPELR-59470(SC).

¹⁴ (2008) 19 NWLR (Pt 1120) 246.

irregularities. The court held that the petitioner must prove not just that irregularities occurred, but that they were substantial enough to have affected the result of the election. The mere existence of irregularities was insufficient to overturn an election. In this case, the doctrine of substantial compliance was affirmed by the court as essential for the stability of elections, ensuring that only significant breaches lead to nullification.

Electoral Integrity

This posits that substantial compliance is necessary to uphold the integrity of elections. It emphasizes that procedural adherence guarantees fairness but allows flexibility for minor deviations that do not undermine the overall election result. In *Atiku Abubakar v INEC*,¹⁵ the petitioner, Atiku Abubakar, challenged the 2019 presidential election, alleging widespread non-compliance with the Electoral Act, particularly concerning the transmission of results electronically. The court ruled that despite some irregularities, the election was conducted in substantial compliance with the law, and the irregularities did not substantially affect the outcome. The court reaffirmed the need to establish that the non-compliance was of such magnitude that it affected the result. The mere presence of irregularities or procedural flaws was not enough. The judgment in this case demonstrates the importance of balancing electoral integrity with practical flexibility, ensuring that technicalities do not nullify the genuine expression of voters' will.

Materiality

This emphasizes the materiality of the non-compliance. It asks whether the irregularity materially affected the result of the election. Courts focus on the outcome, and where the irregularities are proven to be minor or immaterial to the result, the election stands. In *Wike v Peterside*,¹⁶ Nyesom Wike, the then governor of Rivers State, was challenged by Dakuku Peterside over alleged widespread violence, ballot snatching, and voter intimidation in the 2015 gubernatorial election. The tribunal annulled the election, but the Supreme Court reversed this decision, holding that the petitioner failed to prove that the irregularities affected the result. The Supreme Court held that an election should not be invalidated for every irregularity. The petitioner must show that the irregularities were so widespread that they materially affected the outcome. The decision stresses the materiality of irregularities, reinforcing that only significant breaches impacting the results can justify nullification.

Non-Punitive Approach

This suggests that the substantial compliance doctrine prevents the court from adopting a punitive approach to election petitions. Rather than focusing on penalizing every breach of procedure, the court should focus on whether justice is done, that is, whether the election outcome truly reflects the will of the electorates. In *Oshiomhole v INEC*,¹⁷ Adams Oshiomhole challenged the result of the 2007 Edo State gubernatorial election, citing widespread rigging and irregularities. The tribunal found in his favour, and the Court of Appeal affirmed this, holding that the non-compliance with the electoral law was substantial enough to have affected the outcome. The Court held that the purpose of electoral law is not punitive but corrective. Thus, only when non-compliance substantially affects the result should it lead to the annulment of the election. This judgment illustrates the non-punitive perspective, affirming that courts should not annul elections based on procedural irregularities unless the breach distorts the electoral outcome.

Voter Representation

This is based on the understanding that elections are a means to represent the will of the people, and the substantial compliance doctrine ensures that minor irregularities do not obstruct this representation. It focuses on the fairness and transparency of the overall process. In *INEC v Oguebego*,¹⁸ there was a dispute regarding the authenticity of the list of candidates submitted by political parties. The Supreme Court held that where the process allowed the electorates to express their will, even if there were disputes over party nominations, the election result should stand unless there was proof of significant non-compliance that affected the outcome. The Supreme Court reinforced that the primary concern of electoral laws is to reflect the will of the electorates and that minor irregularities in the process of candidate nomination did not affect the expression of voters' will. This case highlights the significance of voter representation, underscoring that procedural flaws that do not distort the electorate's intent should not invalidate elections.

5. Challenges and Controversies in the Application of the Doctrine of Substantial Compliance in Nigeria Electoral Jurisprudence

Subjectivity in Interpretation

The term 'substantial compliance' is often criticized for its subjective interpretation. Courts must decide whether non-compliance is significant enough to affect the election result, which can lead to inconsistent rulings. In *Micheal*

¹⁵ (2019) 5 NWLR (Pt 1670) 1.

¹⁶ (2016) 7 NWLR (Pt 1512) 452.

¹⁷ (2009) 4 NWLR (Pt 1132) 607.

¹⁸ (2015) 18 NWLR (Pt 1491) 273.

Opeyemi Bamidele v INEC,¹⁹ Bamidele's petition alleged significant irregularities in the Senatorial election. The tribunal ruled in favour of Bamidele, finding that the non-compliance was substantial and affected the result. The tribunal's decision was contested for potentially setting a precedent where minor irregularities could be deemed substantial. This case highlighted the challenges in defining what constitutes substantial non-compliance and its impact on the election result.

Burden of Proof

Another controversy is the burden of proof required to establish substantial compliance. Petitioners must provide convincing evidence that irregularities significantly impacted the election results, which can be challenging. In *Ikpeazu v Otti*,²⁰ Alex Otti challenged Dr. Okezie Ikpeazu's governorship win, citing extensive irregularities. The Supreme Court agreed that the evidence showed substantial non-compliance affecting the outcome. The case underscored the challenge of meeting the high burden of proof for substantial compliance, with significant evidence required to overturn an election result. It illustrates the difficulty petitioners' face in proving that irregularities had a material impact on the result.

Impact of Procedural Irregularities

The challenge of determining whether procedural irregularities are substantial enough to affect the outcome is a significant issue. Courts must assess whether these irregularities are isolated incidents or part of a broader pattern affecting the election. In *Amaechi v INEC*,²¹ Rotimi Amaechi challenged the Rivers State governorship election on grounds of procedural irregularities. The Supreme Court found that these irregularities were substantial. The case highlighted the complexity of distinguishing between minor procedural errors and those that are substantial. It demonstrates the difficulty in assessing the cumulative effect of procedural irregularities.

Political and Public Perceptions

The concept of substantial compliance is often influenced by political and public perceptions, which can affect the impartiality of judicial decisions. There can be pressure on courts to rule in favour of popular candidates or political parties. In *Buhari v INEC*,²² Muhammadu Buhari's petition contested the 2007 presidential election results, citing widespread malpractices. The tribunal dismissed the petition, citing insufficient evidence of substantial non-compliance. The decision was controversial and perceived by some as influenced by political factors rather than strict legal standards. This case reflects how political and public pressures can impact the interpretation of substantial compliance.

Variability across Jurisdictions

Different tribunals and courts may interpret substantial compliance differently, leading to variability in rulings. This inconsistency can undermine the predictability and fairness of election petitions. In *Akinlade v Ekiti State Governorship Election Petition Tribunal*,²³ the petition challenged the Ekiti State governorship election results based on alleged substantial non-compliance. The tribunal found that the irregularities were not substantial enough to affect the outcome. The case illustrated how different tribunals might have varying thresholds for determining substantial compliance. It underscores the challenge of achieving uniformity in the interpretation of substantial compliance across different jurisdictions.

6. Problems associated with the application of Substantial Compliance Doctrine in Electoral Process in Nigeria

The doctrine of substantial compliance in Nigeria's electoral process presents several problems and challenges, particularly in the context of determining what constitutes 'substantial' non-compliance. These challenges often involve judicial discretion, inconsistent interpretations, and potential for abuse. Below are the main problems:

Judicial Discretion

One major issue with substantial compliance is the wide judicial discretion involved in determining whether non-compliance is substantial enough to affect the result of an election. Different judges may apply the doctrine differently, leading to inconsistent rulings on similar electoral disputes. In *Atiku Abubakar v INEC*,²⁴ Atiku Abubakar challenged the 2019 presidential election, alleging non-compliance with the Electoral Act, particularly in the use of electronic transmission of results. The court held that there was substantial compliance, even though there were irregularities in some polling units. The wide discretion given to judges created a situation where the same irregularities could lead to different judgments in other courts. This discretionary power may erode confidence in the objectivity of judicial decisions on election matters. The outcome of this case shows that judges may interpret the concept of substantial compliance differently, potentially leading to unpredictable rulings.

Ambiguity in Defining 'Substantial'

There is no clear statutory definition of what constitutes 'substantial' non-compliance, leaving it to the court to decide on a case-by-case basis. This ambiguity can result in conflicting judgments and legal uncertainty. In *Wike v Peterside*,²⁵ Dakuku

¹⁹ (2019) 3 NWLR (Pt 1670) 485.

²⁰ (2016) 1 NWLR (Pt. 1491) 162.

²¹ (2008) 5 NWLR (Pt 1080) 227.

²² (2007) 12 NWLR (Pt. 1048) 239.

²³ (2019) 5 NWLR (Pt. 1678) 423.

²⁴ (2019) 5 NWLR (Pt 1670) 1.

²⁵ (2016) 7 NWLR (Pt 1512) 452.

Peterside challenged the election of Nyesom Wike in Rivers State, citing widespread violence and voter intimidation. While the election tribunal initially annulled the election, the Supreme Court later reversed the decision, holding that the irregularities were not substantial enough to affect the election outcome. The ambiguous definition of 'substantial' led to differing judgments at different levels of the judiciary. This lack of clarity raises the issue of predictability in electoral disputes. This case exemplifies the ambiguity in determining what level of non-compliance justifies nullifying an election.

Undermining of Electoral Integrity

The substantial compliance doctrine can be perceived as undermining the integrity of the electoral process by allowing elections to stand despite irregularities. This could give room for electoral malpractice if parties know that only significant irregularities will lead to the annulment of elections. In *Oshiomhole v INEC*,²⁶ Adams Oshiomhole challenged the 2007 Edo State gubernatorial election, citing rigging and other irregularities. The court annulled the election because the non-compliance was deemed substantial enough to affect the outcome. While the doctrine protects against annulments for minor irregularities, it could allow elections marred by significant yet not 'substantial' issues to stand. This undermines electoral integrity, as technical compliance with the law may be sacrificed for perceived stability. This case demonstrates the potential for the doctrine to tolerate irregularities, which may embolden parties to engage in minor malpractices with the hope that they will be overlooked.

Erosion of Public Trust

The public's confidence in the electoral process may be eroded if courts repeatedly uphold elections despite irregularities, even if they are deemed 'non-substantial.' This could lead to a situation where the electorate feels disenfranchised or that their votes do not matter. In *Buhari v INEC*²⁷ Muhammadu Buhari challenged the 2007 presidential election, alleging widespread rigging and irregularities. The Supreme Court upheld the election, stating that there was substantial compliance, even though irregularities were acknowledged. The court's decision to uphold elections despite proven irregularities led to criticism and accusations of judicial bias, eroding public trust in both the judiciary and the electoral system. This case highlights how the doctrine of substantial compliance, if applied too liberally, may undermine the public's confidence in the electoral system, as it can appear that legal technicalities are prioritized over fairness.

Difficulty in Proving Non-Compliance

For an election to be annulled based on non-compliance, the petitioner must prove that the irregularities were substantial enough to affect the outcome of the election. This burden of proof is often challenging to meet, especially in the absence of clear evidence, making it difficult for petitioners to succeed in their claims. In *INEC v Oguebego*,²⁸ a dispute arose concerning the authenticity of a list of candidates submitted by a political party. The Supreme Court held that, despite issues with candidate nomination, the overall election process substantially complied with the law. The petitioner's burden of proving that irregularities affected the outcome is extremely high, making it difficult to challenge elections even where there are clear violations of the Electoral Act. This case illustrates the difficulty for petitioners in proving substantial non-compliance, as they must not only demonstrate the occurrence of irregularities but also show that those irregularities directly impacted the election result.

Encouragement of Election Malpractices

The doctrine can unintentionally encourage minimal levels of election malpractice. Political actors may engage in minor irregularities, knowing that courts may overlook them as long as they are not 'substantial.' In *Agagu v Mimiko*,²⁹ Olusegun Agagu's election as Governor of Ondo State was challenged by Olusegun Mimiko, who alleged massive rigging. The Court of Appeal annulled the election, stating that the irregularities were substantial enough to affect the result. In cases where irregularities do not meet the threshold of substantial non-compliance, parties may be incentivized to commit smaller, less detectable infractions, confident that they will not lead to annulment. This case highlights the potential danger of fostering a culture of minimal but widespread electoral malpractice that falls below the 'substantial' threshold, weakening the overall integrity of the process.

7. Recommendations for Reforming the Substantial Compliance Doctrine in Nigeria Electoral Process

Clarify the Definition of Substantial Compliance

There is need to establish a clear, standardized definition of what constitutes substantial compliance to reduce subjective interpretation and ensure consistency in tribunal decisions. The Electoral Act 2022 should be amended to include a detailed definition of substantial compliance. Specifically, the Act should provide explicit criteria for determining whether irregularities or non-compliance are significant enough to affect election results. In *Micheal Opeyemi Bamidele v INEC*,³⁰ the tribunal found substantial non-compliance, leading to the nullification of the election results. This case highlighted the ambiguity in defining substantial compliance. The subjective nature of substantial compliance was evident, prompting calls for clearer standards.

²⁶ (2009) 4 NWLR (Pt. 1132) 607.

²⁷ (2008) 19 NWLR (Pt 1120) 246.

²⁸(2015) 18 NWLR (Pt 1491) 273.

²⁹ (2009) 7 NWLR (Pt 1140) 342.

³⁰ (2019) 3 NWLR (Pt 1670) 485.

Strengthen the Burden of Proof Standards

There is need to revisit issue of burden of proof in our electoral jurisprudence. The electoral empire should bear the burden of proof that the election it conducted was free and fair in its entire ramifications. If there is any burden to be borne by the petitioner, the law should specify same explicitly. There is need requiring a clearer demonstration of how irregularities have materially affected the election outcome. Section 135³¹ should explicitly outline the level of proof required for substantial non-compliance and its impact on election results. In *Ikpeazu v Otti*,³² the Supreme Court found substantial non-compliance but required significant evidence of its impact. The case emphasized the high burden of proof required in election petition cases. This case underscores the need for clear standards on how petitioners should demonstrate the material impact of irregularities. There is need to develop a uniform standard for assessing procedural irregularities to ensure consistency across different tribunals and courts. There is equally the need to introduce guidelines within the Electoral Act for assessing the impact of procedural irregularities on election outcomes, ensuring that all tribunals use the same criteria. In *Amaechi v INEC*,³³ the Supreme Court found the irregularities substantial, but the inconsistency in handling procedural issues remained a concern. This case revealed the need for uniform standards in evaluating procedural irregularities.

Enhance Transparency and Accountability in Election Tribunals

There is need to improve transparency and accountability mechanisms within election tribunals to ensure fair and impartial adjudication of petitions. There is need to amend the Electoral Act 2022 to include provisions for increased transparency in tribunal proceedings, such as public access to case records and clear documentation of tribunal decisions. In *Buhari v INEC*,³⁴ the decision was perceived as influenced by political factors, illustrating concerns about tribunal impartiality. This case highlights the need for reforms to enhance tribunal transparency and reduce perceived political influences.

Provide Training and Guidelines for Election Tribunal Judges

There is need to offer specialized training and develop comprehensive guidelines for judges handling election petition cases to ensure consistent and informed application of the substantial compliance doctrine. There is need to include provisions in the Electoral Act, 2022 for mandatory training programs and guidelines for tribunal judges to enhance their understanding of substantial compliance. In *Akinlade v Ekiti State Governorship Election Petition Tribunal*,³⁵ variability in tribunal interpretations of substantial compliance was evident. This reinforces the need for consistent judicial standards and training.

Encourage Alternative Dispute Resolution Mechanisms

There is need to promote the use of Alternative Dispute Resolution (ADR) mechanisms to resolve election disputes more efficiently and equitably. There is urgent need to amend the Electoral Act, 2022 to incorporate Alternative Dispute Resolution (ADR) mechanisms as a complementary approach to resolving election petitions, providing an option for expedited and less contentious resolutions. In *Emeka v Okadigbo*,³⁶ the case involved a challenge to Senate results, with procedural issues highlighted. The case underscores the potential for Alternative Dispute Resolution (ADR) to address complex election disputes more effectively.

8. Conclusion

Section 135(1) of the Electoral Act 2022 forms the statutory basis for the doctrine of substantial compliance in Nigeria. It emphasizes that the courts must look at the overall effect of non-compliance before annulling an election. There is nowhere in the Electoral Act where the doctrine of substantial compliance was defined. The doctrine of substantial compliance in Nigeria's electoral process presents several challenges and controversies, particularly in the context of determining what constitutes 'substantial' non-compliance. These challenges and controversies often involve judicial discretion, inconsistent interpretations, and potential for abuse. The writer has painstakingly discussed the reform needed for strengthening the application of the doctrine of substantial compliance in Nigeria electoral jurisprudence. Such recommendations include: clarifying the definition of substantial compliance in our electoral Act; strengthening the burden of proof standards; enhancing the transparency and accountability in election tribunals; providing training and guidelines for election petition judges and encouraging Alternative Dispute Resolution (ADR) mechanisms in our electoral system. This article will go a long way in provoking further discussions on the topic aimed at improving our democratic institutions.

³¹ Electoral Act, 2022, Cap E2, Laws of the Federation of Nigeria.

³² (2016) 1 NWLR (Pt 1491) 162.

³³ (2008) 5 NWLR (Pt 1080) 227.

³⁴ (2007) 12 NWLR (Pt 1048) 239.

³⁵ (2019) 5 NWLR (Pt 1678) 423.

³⁶ (2001) 15 NWLR (Pt 738) 84.